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EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills have been introduced in the Rajya Sabha on the
21st June, 2019:—

I

BILL NO. III OF 2018

A Bill to amend the Micro, Small and Medium Enterprises Development Act, 2006.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Micro, Small and Medium Enterprises Development (Amendment) Act, 2018.

Short title and
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Micro, Small and Medium Enterprises Development Act, 2006, after section 10, the following section shall be inserted, namely:—

Insertion of
new sections
10A and 10B.

"10A. (1) Every scheduled commercial bank either belonging to public sector or private sector, shall lend to the micro, small and medium enterprises at the rate of eight per cent per annum.

Lending rate
and limit for
lending of col-
lateral free
loan.

(2) Every micro, small and medium enterprises shall be entitled to collateral free loan up to rupees four crore from scheduled commercial banks.

Incentives and concession to increase the inflow of equity capital.

10B. The Central Government shall, from time to time, notify such incentives and concessions to increase the inflow of equity capital into micro, small and medium enterprises, as it may deem fit".

STATEMENT OF OBJECTS AND REASONS

The Micro, Small and Medium Enterprises Development Act, 2006 aims to provide for facilitating promotion and development and enhancing the competitiveness of micro, small and medium enterprises (MSMEs) in the country and also develop skill among employees management and entrepreneurs, provisioning for technological upgradation, marketing assistance or infrastructure facilities.

However, the MSMEs continue to face serious bottlenecks in its development, despite contributing eight per cent of the country's GDP and forty per cent of India's exports, employing about sixty five million people. Lack of access to adequate and timely credit at reasonable rate is the critical problem faced by this sector. Hence, there is an urgent need to make it compulsory by law for scheduled commercial banks, both public sector and in private sector, to provide affordable interest rates to MSME sector for their capital.

The Bill seeks to achieve the above object.

DR. T. SUBBARAMIREDDY

II

BILL NO. XIV OF 2018

A Bill further to amend the Railways Act, 1989.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Railways (Amendment) Act, 2018.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
section 3.

2. In section 3 of the Railways Act, 1989, after sub-section (4), the following shall be inserted, namely:—

“(4A) Notwithstanding anything contained in this section the Central Government shall, by notification, constitute a new Zonal Railway with headquarter at Vishakhapatnam consisting of the Waltair Railway Division of the East Coast Railway Zone and Vijayawada, Guntur and Guntakal Railway Divisions of the South Central Railway Zone.”.

STATEMENT OF OBJECTS AND REASONS

The division of the erstwhile State of Andhra Pradesh in the year 2014 left the residual State of Andhra Pradesh with a number of challenges and disadvantages. To overcome such difficulties and to make up for the loss of resources, establishment of a separate railway zone was promised to the residual State of Andhra Pradesh under the Thirteenth Schedule as per section 93 of the Andhra Pradesh Reorganisation Act, 2014.

Consequent upon reorganisation of the State of Andhra Pradesh, none of the Railway zones operating in the State of Andhra Pradesh has its headquarters within the State. This has caused great inconvenience to the public of the State of Andhra Pradesh. The concerns of railway commuters of the State are no longer the priority of any of the railway zones. People from the State have to travel all the way to the neighbouring States of Odisha and Telangana to the Zonal headquarters. A separate railway zone which caters to the special needs of the State and for strengthening infrastructure is directly needed.

The Bill, therefore, seeks to amend the Railways Act, 1989 with a view to constitute a new Zonal Railway headquarter at Visakhapatnam consisting of the Waltair Railway Division of the East Coast Railway Zone and Vijayawada, Guntur and Guntakal railway divisions of the South Central Railway Zone.

Hence this Bill.

DR. T. SUBBARAMIREDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to constitute a new Zonal Railway headquarter at Visakhapatnam consisting of the Waltair Railway Division of the East Coast Railway Zone and Vijayawada, Guntur and Guntakal railway divisions of the south Central Railway Zone. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one hundred crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

III

BILL NO. V OF 2018

A Bill to provide employment or means and resources for self-employment to at least one adult member of every family and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Employment Act, 2018.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) "Board" means the Employment Advisory Board constituted under section 5;

(b) "family" includes wife, husband and minor children; and

(c) "prescribed" means prescribed by rules made under this Act.

3. It shall be the duty of the Central Government to provide gainful employment to at least one adult member of every family.

Central Government to provide employment.

4. Every unemployed person shall be entitled to receive monthly unemployment allowance at such rate as may be prescribed, till he is provided with gainful employment.

Grant of unemployment allowances.

5. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Employment Advisory Board for carrying out the purposes of this Act.

Constitution of Employment Advisory Board.

(2) The Board shall consist of,—

(a) a retired Judge of the Supreme Court—Chairperson;

(b) two representatives of the Central Government—Members;

(c) one representative from Union Ministry of Labour and Employment—Member;

(d) two persons having experience in labour laws, to be appointed by the Central Government in such manner as may be prescribed—Members; .

(e) one representative from the National Institution for Transforming India (NITI) Aayog—Member;

(f) one woman having experience in the field of empowerment of women and children, to be appointed by the Central Government—Member; and

(g) Director - General of Employment, Union Ministry of Labour and Employment Member Secretary;

(3) The Board shall have at least three meetings in a quarter of the year:

Provided that the Chairperson may call for a meeting at any time in consultation with the Member-Secretary as and when the circumstances warrant so.

(4) The salary and allowances payable to and other terms and conditions of service of Chairperson and members of the Board shall be such as may be prescribed.

6. The Board shall,—

Functions of the Board.

(a) identify fields and areas for generation of employment and forward the information to the Central Government;

(b) collect data of unemployed persons in every district;

(c) develop model for generation of self employment for unemployed youth;

(d) develop model for providing skill development and vocational training to youth;

(e) encourage businessmen for generation of employment; and

(f) undertake such other measures for generation of self-employment for unemployed youth as it considers necessary.

7. (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Employment Fund for carrying out the purposes of this Act.

Constitution of Employment Fund.

(2) The Central Government and State Governments shall contribute to the Employment Fund in such ratio as may be prescribed.

8. The Central Government shall, on the recommendation of the Board, take steps to promote the interest of unemployed youth for getting employment or self-employment, through various measures in such measure or may be prescribed.

Promoting interest of unemployed youth.

Central Government to provide resources or facilities to dependent member of family.

9. The Central Government shall provide facilities or resources for self-employment to every family where it is not possible to provide employment to atleast one dependent member of that family.

Central Government to provide funds.

10. The Central Government shall, after the appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Power to make rules.

11. (1) The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act by the Central Government shall be laid before each House of the Parliament, as soon as may be after it is made. While it is in session, for a total period of thirty days which may comprise in one session or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any such modification in the rule or both the Houses agree that the rule should not be made, the rule shall, as the case may be; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Unemployment is one of the biggest problems in India. Even after seventy-one years of Independence, we have not been able to meet the challenge of providing employment to the massive unemployed youth. Although our country has progressed in many fields, yet it has failed to improve the generation of employment and job opportunities. With two-thirds of 1.2 billion people in the age group of 35 year, India is the world largest youth population, something a challenge and an opportunity. More than 30 per cent of India's youth are not in employment. They are reeling under poverty.

There are a large number of families where there is not even a single earning member and most of them earn their livelihood by working as labourers, domestic servants, bonded labourers, etc. majority of population lives below poverty line. Our country being a welfare State should take necessary steps to improve the lot of the people and formulate schemes and plans to eradicate poverty from the country.

The National Sample Survey Office (NSSO) round table was last held in 2011-12 and there is lot of confusion about the prevailing employment situation. The focus of the Government needs to shift to more spending on enhancing quality of education and vocational and skill training. There is a need to improve India's track record on job creation.

It is proposed that at least one adult member of every family should be provided with employment and where it is not possible to provide employment, the Government should encourage those who desire to set up their own business and improve their capability of increasing production, like handicraft artisans, carpenters, weavers, cottage industry so that they become self-sufficient and the family should be given all necessary facilities for decent and reasonable living.

Hence this Bill.

DR. T. SUBBARAMIREDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall provide employment to at least one adult member of every family. Clause 4 provides for payment of unemployment allowances to every unemployed person at such rate as may be prescribed till he is provided with gainful employment. Clause 5 provides for constitution of Employment Advisory Board. Clause 7 provides for contribution of Employment Fund for carrying out the purposes of this Bill. Clause 9 provides that the Central Government shall provide subsidy and all facilities or resources for self-employment to a family where it is not possible to provide employment clause 10 empowers the Central Government to provide funds for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India in implementing the provisions of the Bill. It is likely to involve an annual recurring expenditure of about rupees seven thousand crore from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees four thousand crore is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules to carry out the purposes of the Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

IV

BILL NO. XXVII OF 2018

A Bill to provide for the protection of the families of farmers by the State who have lost their lives in accident of any nature, due to disease, natural death or by committing suicide by extending welfare measures, financial assistance, etc. so as to enable the bereaved families to bear the loss of their bread winners and live a respectable life and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Protection of Farmers Families Act, 2018.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—
 - (a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government.
 - (b) "bereaved family" includes the dependent parents, the widow and dependent children of the deceased farmer;
 - (c) "children" means the sons and daughters below the age of twenty-five years dependent on the deceased farmers;
 - (d) "deceased farmer" means a farmer who has lost his life due to accident or disease or natural death or by committing suicide;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "widow" means a legally married wife of the deceased farmer.

3. (1) The Central Government shall, within a period of one year from the commencement of this Act, formulate a National Policy for the welfare and rehabilitation of the bereaved families of farmers who lose their lives due to accident of any nature including snake bites, attack by wild animals, in a natural calamity, inhaling of poisonous toxins or pesticides etc. or by committing suicide for whatever reasons including being debt ridden and for providing protective measures as it may deem fit and necessary.

National policy for the protection of the families of farmers.

(2) It shall be the duty of the appropriate Government to implement the National Policy referred to in sub-section (1).

4. The appropriate Government shall waive off the outstanding loans taken from any Bank, financial institutions and private moneylender by the deceased farmers.

Loan waiver of deceased farmers.

5. The Central Government shall provide such financial assistance to the bereaved families of deceased farmers as may be prescribed:

Financial assistance to bereaved families.

Provided that the financial assistance shall be in addition to the waiving of the loans under section 4 of this Act.

6. (1) The appropriate Government shall conduct skill development programmes for the widows and children of deceased farmers to help them sustainable means of livelihood by focussing on skill augmenting workshops either for handicrafts or for the revival of the skill endemic to the area.

Skill development programmes for widows and children.

(2) After the widows or children have acquired necessary skills under sub-section (1) the appropriate Government shall provide interest free loan of such amount as may be prescribed to the widows or children, as the case may be, as an initial investment needed for setting up of micro or small scale industry, poultry or dairy farms, etc. for the purposes of this section.

7. It shall be the duty of the appropriate Government to provide the necessary agricultural equipments and inputs for the initial sowing season to the bereaved families who opt for farming as means of livelihood.

Appropriate Government to provide agricultural equipments and inputs to bereaved families.

8. The appropriate Government shall open adequate number of schools in rural areas to provide educational facilities to the children and also provide healthcare facilities to the bereaved families and bear the expenditure for marriage of grown up daughter.

Education and healthcare facilities etc.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf provide requisite funds to the State Governments, from time to time, for carrying out the purposes of this Act.

Central Government to provide funds.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Act to supplement other laws.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Farmer, the *annadaata* of the nation grow foodgrains, vegetables, fruits, milk, poultry and non vegetarian food products for the second most populous nation of the globe. He also produces raw material for various industries of the country thus plays a significant role in the progress of the nation. However he is debt ridden, poor and lives hand to mouth and remains exploited also. When he finds the debt, poverty and exploitation unbearable he takes the extreme step of ending his life by committing suicide. Lakhs of farmers have so far committed suicide in the country and unfortunately Maharashtra, Punjab, Madhya Pradesh, etc. are leading States where farmers have committed suicide in large number and this is still going on. News of farmers committing suicide comes almost on daily basis. Farmers also lose their lives due to snake bites, attack by wild animals, in natural calamities and also natural death. In most of the cases, the farmer is the sole bread winner of the family which generally consist of aged parents, spouse and children. With the death of sole bread winner the entire family becomes destitute and helpless. In addition to their miseries and sufferings at the hands of cruel destiny, these families are haunted by banks and private moneylenders for loan recoveries. Anti social elements exploit their miseries and lure their young, adolescent girls for trafficking. Land sharks also become active to grab their land.

In a democratic and welfare State like ours, it is the duty of the Central and State Governments to extend protective umbrella to the bereaved distressed families of deceased farmers by providing financial assistance, waiving of loans, providing skill development, granting interest free loans for setting up micro and small scale industries, by ensuring education of the children, healthcare facilities to the aged parents and other family members and arrange for marriage of grown up daughters.

Since the State can not bear the burden of huge financial expenditure, the Central Government must provide adequate funds to the Government of the States for carrying out the purposes of this Bill. The State Government in turn should also allocate the funds based on the degree of agrarian crisis in different parts of the State. For instance, in the State of Maharashtra, the regions of Marathwada and Vidharbha are the most affected due to large scale suicides of farmers. Therefore, the State Government must allocate more funds to these regions.

Hence this Bill.

RAJKUMAR DHOOT

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the loan waiver of deceased farmers. Clause 5 provides for the financial assistance to bereaved families of deceased farmers. Clause 6 provides for conducting skill development Programme and interest free loans for initial investment for setting up of small scale industries for the widows and children of deceased farmer. Clause 7 provides for agricultural equipment and inputs to the bereaved families. Clause 8 provides for opening of adequate number of schools, affordable healthcare facilities and arrangement of marriage of daughter to the bereaved families. Clause 9 makes it obligatory for the Central Government to provide requisite funds to the State Governments for carrying out the purposes of the Bill. Though it is not possible to quantify the total expenditure which is likely to be involved for implementing the provisions of this Bill, it is estimated that a sum of rupees one lakh crore may be required as recurring expenditure per annum.

Non-recurring expenditure to the tune of rupees one lakh crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of detail only. This delegation of legislative power is of normal character.

V

BILL NO. XXV OF 2018

A Bill to provide for the prevention of contamination of groundwater due to arsenic, fluoride, zinc and other mineral residues which adversely affect the health of millions of people for identification of risk areas of contamination, formulation of national policy for preventing contamination of groundwater and for the establishment of a Board for specifically concentrating on this issue so as to protect the people from adverse effects of water contamination and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Prevention of Contamination of Groundwater Act, 2018.

(2) it extends to the whole of India.

(3) It shall come into force with immediate effect.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "Board" means the National Groundwater Contamination Prevention Board established under section 4 of this Act;

(b) "contamination of water" means mixing of chemical elements and minerals and other residues in the groundwater such as arsenic, fluoride, zinc etc. thereby making the water unfit for consumption and other uses;

(c) "groundwater" means naturally formed water found below the surface in the saturated zone which can be extracted by digging wells, boring handpumps etc.; and

(d) "prescribed" means prescribed by rules made under this Act.

3. Notwithstanding anything contained in any other law for the time being in force, the Central Government shall, as soon as may be but not later than one year of the commencement of this Act, in consultation with the Governments of the States, formulate a National Policy for prevention of contamination of groundwater and related issues to protect the people, livestock and crops from such contamination.

National
Policy for
Prevention of
contamination
groundwater.

4. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish a Board to be called National Groundwater Contamination Prevention Board, hereinafter referred to as Board for carrying out the purposes of this Act.

Establishment
of National
Groundwater
Contamination
Prevention
Board.

(2) The headoffice of the Board shall be at Aurangabad in the State of Maharashtra and the Board may establish offices at other places in the States and Union Territories as it may deem necessary for carrying out the purposes of this Act.

(3) The Board shall consist of the following members who shall be appointed by the Central Government in such manner and for such period as may be prescribed, namely:—

(a) a Chairperson, who shall be an expert scientist having adequate knowledge and professional experience in water related matters;

(b) one Deputy Chairperson with such qualifications and experience as may be prescribed;

(c) five Members of Parliament of whom two shall be from Rajya Sabha and three from Lok Sabha to be nominated by the respective Presiding Officers of the two Houses;

(d) five members one each to represent the Union Ministries of Drinking water and Sanitation, Environment, Forest and Climate Change, Health and Family Welfare, Science and Technology and Water Resources, River Development and Ganga Rejuvenation;

(e) four members to represent Non-Government Organisations working in the field;

(f) four members to be nominated by the Governments of the States to be rotated amongst the States in alphabetic order;

(4) The Board shall be a body corporate by the name aforesaid having perpetual succession and common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

(5) The salary and allowances payable to the Chairperson, Deputy Chairperson and Members of the Board and the procedure to be followed in the discharge of the functions of the Board shall be such as may be prescribed;

(6) The Board shall have a Secretariat with such number of officers staff as may be prescribed;

Functions of
the Board.

(7) The salary and allowances payable to and other terms and conditions of the officers and staff of the Board shall be such, as may be prescribed.

5. (1) The Board shall perform and undertake such special steps in close coordination of concerned Ministries, Departments of the Central and State Governments to get rid of contaminations in the groundwater and to make available contamination free safe water to the people in the country who use groundwater as it may deem necessary and expedient under this Act.

(2) without prejudice to the generality of the foregoing provisions, the Board shall,

(a) conduct surveys, from time to time, of risk areas in order to determine the locations, scale and causes of contamination of groundwater particularly contamination due to arsenic, fluoride, zinc, iron etc., and to assess the damages being caused to humans, livestock and crops when used such contaminated water;

(b) develop awareness amongst the people of the areas affected by contamination of groundwater about the potential danger of groundwater contamination when used;

(c) extend help to farmers to adopt maximizing rainfed production of crops where alternative water source for irrigation insufficient and also contaminated;

(d) priorities clean water supply and treatment on a massive scale of contaminated groundwater used for consumption in worst affected areas;

(e) establish water quality testing centres and groundwater treatment plants at conspicuous places in the areas found to have contaminated groundwater;

(f) identify alternative soft water sources and assess their sustainability;

(g) assess the effects of contaminated water exposure specially on human health and that of the livestock;

(h) investigate the impact of contamination on irrigated agriculture;

(i) assess the likely impact of climate change on the increased demand for and reduced availability of groundwater;

(j) suggest measures to recharge the groundwater on a large scale to contain contamination of groundwater; and

(k) such other activities as may be assigned to it by the Central Government from time to time.

Annual
Report.

6. The Board shall prepare once in every year in such form and at such time, as may be prescribed, an annual report giving summary of its activities during the previous year and submit it to the Central Government which shall, after action taken thereon, cause it to be laid before both the Houses of Parliament.

Central
Government
to provide
funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Board in each financial year such sums as may be considered necessary and adequate for the proper functioning of the Board for carrying out the purposes of this Act.

Act to
supplement
other laws.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act.

Power to
make rule.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Ours is a vast nation consisting of hilly, plain, desert, marshy and coastal areas where groundwater is the major source of water supply for human consumption and other uses. Groundwater is also used as a means of irrigation. Our nation which faces erratic monsoon, year after year, groundwater is the perennial source of water supply which meets eighty five percent of the water demand of the people of rural India and fifty percent demand for water in urban areas. Even in the National capital, the treated water is mixed with borewell water and then supplied to the consumers.

Unfortunately, the groundwater in major parts of our country is contaminated with arsenic, fluoride, zinc, iron ore and other minerals which are very dangerous if not separated from the raw water. Naturally contaminated groundwater is a catastrophe with enormous public health implications. Apart from causing deformity, tooth decay, weak bones etc. contamination causes dangerous diseases like cancer and other dangerous ailments. The arsenic contamination in groundwater has affected quite a large number of people particularly in the States of Uttar Pradesh, Bihar, West Bengal and other parts of the country. Zinc is responsible for groundwater contamination in Rajasthan. Fluoride and Uranium is rampant in groundwater of Punjab and Southern States.

Hence, it is necessary to wake up to take this issue seriously and take corrective measures to protect the health and lives of millions of people who have no other option but to drink the contaminated groundwater. It is high time a National Board is established to deal solely with contamination issue of groundwater and for initiating corrective measures on a war footing.

Hence this Bill.

RAJKUMAR DHOOT

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of National Groundwater Contamination Prevention Board. Clause 7 makes it obligatory for the Central Government to provide necessary and adequate funds to the Board for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty thousand crores may involve as recurring expenditure per annum. A non recurring expenditure to the tune of rupees one lakh crore may also involve for creating assets throughout the Country.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of details only. The delegation of legislative power is of normal character.

VI

Bill No. XXIII of 2018

A Bill to provide for compulsory yoga and sports education from primary to senior secondary level in all the schools throughout the country in order to prepare talent of sports from school level and thereby ensuring good health of students and for making it obligatory for the Central and State Governments to provide requisite infrastructure for the purpose and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Compulsory Yoga and Sports Education in Schools Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of the State, and in other cases the Central Government;

(b) “prescribed” means prescribed by rules made under this Act;

(c) “school” includes Government school Government aided school or a private school which imparts education;

(d) “sports infrastructure” means requisite resources for playing such as playground with necessary facilities, articles of sports, sports instructors etc. and requisite environment as are required necessary in the school; and

(e) “yoga” means yoga postures or asanas and such other yoga exercises as would promote control of the body by bringing in flexibility, strength and endurance and of mind by enhancing alertness and meditation.

3. (1) The Central Government shall, as soon as may be, but not later than one year of the commencement of the Act, formulate a National Policy for providing yoga and sports education in all schools of the country and ensuring requisite infrastructure and other facilities required for yoga and sports.

National policy for Yoga and Sports education and infrastructure thereof.

(2) The national policy referred to in sub-section (1) shall provide for,—

(i) imparting free yoga and sports education to all the students as per their ability and physical condition in all the schools;

(ii) encouraging yoga, sports and sports education and creating awareness of the importance of yoga and sports among the schools students;

(iii) ensuring the availability of yoga teacher and sports instructor in all the schools;

(iv) releasing adequate funds for infrastructure development for yoga and sports education in all the schools;

(v) incorporating yoga and sports as compulsory subjects in all the schools;

(vi) preparing standard and qualitative syllabus for yoga and sports education as per the age and physical capacity of the students under the guidance of experts and universalisation thereof;

(vii) providing scholarship and stipend to those students whose performance in yoga and sports has been outstanding;

(viii) giving weightage to marks obtained in yoga and sports for admission in colleges, universities, and institutions of national importance;

(ix) giving preference to the outstanding sports persons in direct recruitment under the Central and State Government services; and

(x) such other provisions, as the Central Government may deem fit and necessary for carrying out the purposes of this Act.

4. (1) It shall be the duty of the appropriate Government to implement the National Policy formulated under section 3 of this Act.

Appropriate Government to implement National policy.

(2) The appropriate Government shall review the progress and quality of yoga and sports education being imparted by the schools from time to time, in such manner as may be prescribed.

5. Any school which violates the provisions of this Act shall be liable for punitive action by the appropriate Government, including withdrawal of recognition of the school in such manner and with such condition, as may be prescribed.

Penal provisions.

Central
Government
to provide
funds.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds from time to time for carrying out the purposes of this Act.

Act to
supplement
other laws.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to
make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Yoga is being practiced in our country since the time immemorial for good health and longevity. It keeps the body and mind healthy and sound and its various *asanaas* cure even serious diseases. Now, yoga is not confined to India only but has become international and International yoga Day is held every year throughout the world. It is felt that yoga should be introduced right from the childhood to make it a part and parcel of everyone's life. Similarly, various sports activities make us healthy, fit and fine and they are essential for the overall development of people in particular, the children and youth. Some sports are even very rewarding and outstanding sportspersons of these sports earn enormous wealth in their career. Many international sports events such as Olympics, Commonwealth Games, Asian—Championships etc. are held from time-to-time and winning in these events brings laurels for the country. Thus, the process of sports must start from the school itself to prepare talents for national and international events.

Our country is having the highest number of youth and majority of them are sports lovers. In fact, there is no dearth of talent in various sports in the country. The only shortcomings is that they seldom get proper resources, training and well equipped infrastructure to sharpen their talent to become international sportspersons. It is felt that compulsory yoga and sports education in schools will definitely identify talent and make our nation excel in the global sports and competitions, apart from building a fit and healthy nation.

Hence this Bill.

RAJKUMAR DHOOT

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for imparting free yoga and sports education in all schools, adequate funds for infrastructure development and scholarship and stipends for outstanding students in yoga and sports. Clause 6 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the actual expenditure at this juncture, but it is estimated that a sum of rupees one lakh crore may be as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees two lakh crore may also be involved for creating various assets throughout the country.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

VII

BILL NO. XLII OF 2018

A Bill to repeal the Armed Forces (Special Powers) Act, 1958.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Armed Forces (Special Powers) Repeal Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Repeal of Act,
No. 28 of
1958.

2. The Armed Forces (Special Powers) Act, 1958 is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Armed Forces Special Powers Ordinance was first promulgated on August 15, 1942 by Lord Linlithgow, the then Viceroy of India, to suppress the Quit India Movement launched by Mahatma Gandhi. Gandhi, Jawaharlal Nehru and most leaders of the Indian National Congress were imprisoned under this law.

A few years after Indian independence, India faced its first insurgency in Naga districts of Assam, along the Burmese border. India responded by sending in thousands of Indian army soldiers and para-military forces to crush the rebellion. To counter this insurgency and provide the armed forces with legal protection, the then Government passed the Armed Forces Special Powers Act, 1958. Since then, insurgency has spread to large parts of the country and the Act has been extended to Manipur, Jammu & Kashmir and other parts of India.

The AFSPA violates the provisions of the Universal Declaration of Human Rights ("UDHR"), the International Covenant on Civil and Political Rights ("ICCPR"), the Convention Against Torture, the United Nations Code of Conduct for Law Enforcement Officials, the United Nations Body of Principles for Protection of All Persons Under any form of Detention and the United Nations Principles on Effective Prevention and Investigation of Extra-Legal and Summary Executions.

The Supreme Court, various Commissions, Committees including International Organisations have recommended the repeal of this law. The report of the Justice Jeevan Reddy Committee (2005) recommending, among others, repeal of the Act is already with the Government.

The report of the Second Administrative Reforms Commission (2007) headed by none other than the former Union Minister, Shri M. Veerappa Moily, who was also the former Union Law Minister recommended, among others, repeal of the Armed Forces (Special Powers) Act, 1958. Further, the report of the Working Group on Confidence-Building Measures in Jammu and Kashmir (2007) headed by Shri Hamid Ansari, former Vice-President of India recommended, among others, repeal of AFSPA. The Justices J.S. Verma Committee (2012) had also recommended the repeal of this Act.

The Bill, therefore, seeks to repeal the Armed Forces (Special powers) Act, 1958.

Hence, this Bill.

RIPUN BORA

VIII

BILL NO. XXXIX OF 2018

A Bill to ensure equal participation of women in representing the Government of India while entering into any international treaty, agreement, covenant, resolution or negotiation, including those relating to war or peace, in order to uphold the values of international human rights and convention to which India is a signatory and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called The women (Equal participation in International Peace Negotiations, Treaties and Agreements) Act, 2018.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Committee" means the International Negotiations Committee constituted under section 3 of the Act.

(b) "prescribed" means prescribed by rules made under this Act.

Constitution of
the
International
Negotiations
Committee.

3. (1) The Central Government shall, within six months of coming into force of this Act, by notification in the Official Gazette, constitute a Committee to be known as the International Negotiations Committee.

(2) The Chairperson of the Committee shall be a person who is or has been a judge of the Supreme Court to be appointed, in consultation with the Chief Justice of India, for a period of three years.

(3) The Committee shall also consist of three members to be appointed by the Central Government, of whom one shall be a person who is or has been a judge of the High Court to be appointed in consultation with the Chief Justice of India and other two members shall be appointed from amongst persons having knowledge and experience of refugee issues and refugee law, for a period of three years.

(4) The Central Government shall also appoint a Commissioner and such number of Deputy Commissioners, officers and other staff, as may be necessary, in such manner, as may be prescribed, who shall work under the direct supervision and control of the Committee.

(5) The Commissioner shall be a person who is or has been a judge of the High Court and shall be appointed in consultation with the Chief Justice of India, for a period of three years and the Deputy Commissioners shall be appointed from amongst persons who are qualified to be appointed as judge of a High Court, after consultation with the Chief Justice of India, for a period of three years.

(6) The salary and allowances payable to, and other terms and conditions of service of the Chairperson, members, Commissioner and Deputy Commissioners, officers and staff shall be such as may be prescribed.

(7) The Committee shall have the power to regulate its own procedure.

4. The Committee shall ensure equal participation of women in representing the Government of India while entering into any international treaty, agreement, covenant, resolution or negotiation, including those relating to war and peace, in order to uphold the values of international human rights and convention to which India is signatory.

Functions of the International Negotiations Committee.

(2) Without prejudice to the generality of the foregoing provision, the Commission shall ensure equal participation of women while representing Government of India:—

(i) in every international conference, international association and other international bodies.

(ii) while entering into treaties and agreements with foreign countries and while implementing such treaties or agreements;

(iii) in any negotiations, resolution or international talks regarding war or peace; and

(iv) in every peace talk at national level.

5. The provision of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act to have overriding effect.

6. (1) The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Beijing Declaration and Platform for Action, 1995, in which India is a participant and signatory, makes clear that the women, peace and security agenda is not simply about making war safe for women, as it is sometimes understood, but about preventing the outbreak of violent conflict and resolving it where it does occur. It also stresses the importance of fostering a culture of peace among men and women, alluding to links between gender norms and militarization.

The United Nations Security Council adopted a resolution (S/RES/1325) on women, peace and security on 31 October, 2000. The resolution reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security. The Resolution 1325 urges all actors to increase the participation of women in all United Nations peace and security efforts. It also calls on all parties to conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict. The resolution provides a number of important operational mandates, with implications for Member States and the entities of the United Nations system.

There have been 17 peace talks in the country and only 2 women have participated so far. Currently there are none in these peace talks. The main objective of this Bill is to establish an appropriate legal framework to recognize the stake of women in conflict talks and to ensure that international negotiations including peace negotiations maintain gender-parity.

Hence this Bill.

RIPUN BORA

FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter alia* provides for The constitution of the International Negotiation Committee and the appointment of a Commissioner and such number of Deputy Commissioners of the Committee as may be necessary besides the salary and allowances payable to them. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible to ascertain as to how much expenditure will be involved. The exact expenditure involved will be known only after the Bill is passed and the Committee is set up.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

IX

BILL NO. XXXVIII OF 2018

A Bill to modify the National Anthem “Jana Gana Mana”.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Anthem (Modification) Act, 2018.

Short title,
extent and
commencement.

(2) It shall come into force on such date, as the Central Government may, by Notification in the Official Gazette, appoint.

2. The National Anthem “Jana, Gana, Mana” shall be modified as mentioned in the Schedule of this Act.

Modification
of the National
Anthem.

THE SCHEDULE

[See Section 2]

Jana gana mana adhinayaka Jaya hey
Bharata bhagya vidhata
Punjab Sindh uttarpurv Gujarat Maratha
Dravida Utkala Banga
Vindhya Himachal Yamuna Ganga
Uchchala jaladhi taranga
Tava Shubha name jage
Tava shubha ashisha mage
Gahe tava jaya getha
Jana gana mangala dayaka jaya hey
Bharata Bhagya vidhata
Jaya hey, jaya hey, jaya hey
Jaya jaya jaya, jaya hey.

STATEMENT OF OBJECTS AND REASONS

The National Anthem of India “Jana, Gana Mana” was composed by Dr. Rabindranath Tagore and was first sung on December 27, 1911. The Anthem naturally reflects the composition of India at that time.

The then President of India, Dr. Rajendra Prasad, had made a statement in the Constituent Assembly on 24th January, 1950 that the composition consisting of the words and music known as Jana Gana Mana is the National Anthem of India, subject to such alterations in the words as the Government may authorise as occasion arises.

The anthem does not mention very important component of India like the Northeast, now comprising of the states like Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh, Sikkim and Mizoram. The North-Eastern (NE) states are situated at such strategic and sensitive points, that they are at the border of Burma, China, Bhutan and Bangladesh. In most of the cases the people of North-Eastern states feel alienated from rest of India, as most of the states are still not easily accessible by virtue of being hill states with inhabitants of hill tribes inspite of the mass participation and commendable contribution of the people of these states in the freedom struggle of India. Therefore, the anthem needs to be modified so that it reflects the true composition of present day India including the northeastern states.

Hence, this Bill.

RIPUN BORA

X

BILL NO. XLIII OF 2018

A Bill to curb food waste by empowering and mobilizing food producers, processors and distributors, consumers and associations and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Food Waste (Reduction) Act, 2018.

(2) It extends to whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) "appropriate Government" means in respect of matters relating to,—

(i) the Union territory without legislature, the Central Government;

(ii) the Union territory of Puducherry, the Government of that Union territory;

(iii) the Union territory of Delhi, the Government of that Union territory;
and

(iv) the State, the State Government;

(b) "best before means the date on the label on packed food or ingredient that indicates the end of the period in which the condition of this food, under storage, will remain as stated;

43 of 1961. (c) "charitable purpose" shall have the meaning ascribed to it under clause (15) of section 2 of the Income Tax Act, 1961;

(d) "donor" means the supermarket operator or the person engaged in charitable purpose contracted by the supermarket operator under this Act;

34 of 2006. (e) "food" shall have the meaning ascribed to it under clause (j) of section 3 of the Food Safety and Standards Act, 2006;

34 of 2006. (f) "ingredient" shall have the meaning ascribed to it under clause (y) of section 3 of the Food Safety and Standards Act, 2006;

(g) "person" includes:

(i) a company;

(ii) an association of persons or a body of individuals, whether incorporated or not; and

(iii) every artificial juridical person not falling within any of the preceding sub-clauses;

(h) "personal injury" means impairment of a person's physical or mental condition;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "shop" means any premises where goods are sold either by retail or wholesale and includes an office, a store-room, godown, warehouse or workhouse or work place, whether in the same premises or otherwise, used in or in connection with such trade or business;

(k) "supermarket operator" means any undertaking, operating for profit, whether public or private, carrying out the activities related to storage, distribution and sale of food or food ingredients;

34 of 2006. (l) "unsafe food" shall have the meaning ascribed to it under clause (zz) of section 3 of the Food Safety and Standards Act, 2006;

3. (1) Notwithstanding anything contained in any other law for the time being in force, a supermarket operator having a shop measuring such dimensions, as may be prescribed, by the appropriate Government, shall donate unsold food or food ingredient suitable for human consumption which is approaching its best before date, which would have otherwise been binned.

Donation of unsold consumable food products by supermarket operators.

34 of 2006. (2) Without prejudice to the provisions contained in the Food Safety and Standards Act, 2006 and the rules made thereunder relating to food safety, the supermarket operators shall not deliberately make their unsold consumable food products unsuitable for consumption.

(3) No contractual stipulation shall prevent the donation of food or food ingredient by a supermarket operator to a person engaged in charitable purposes.

(4) The provisions of this section shall not be applicable to food or food ingredient unfit for consumption, or, food or food ingredients that has past its use by date.

Agreement by
supermarket
operators.

4. (1) Within one year of the enactment of this Act or, within a year of opening of a shop or the date on which the shop area exceeds the threshold limit prescribed by the appropriate Government, every supermarket operator shall conclude an agreement specifying the terms and conditions under which food and food ingredient shall be donated to a person engaged in charitable purpose:

Provided that the supermarket operators that have entered into such an agreement prior to the enactment of this Act shall be deemed to have complied with the provision of section (1).

Penalties.

5. (1) A supermarket operator who fails to comply with provisions of section 4, shall be punishable with a fine of rupees one lakh.

(2) Without prejudice to the provision of the Food Safety and Standards Act, 2006 and the rules made thereunder relating to food safety, a supermarket operator who deliberately renders unsold food and food ingredient unsuitable for consumption, shall be punishable with a fine of rupees fifty thousand.

34 of 2006.

Liability of
donor in case
of death and
personal
injury.

6. (1) A donor shall not incur any civil liability in respect of any death or personal injury that results from the consumption of donated food where the food was,—

(a) donated in good faith for a charitable or benevolent purpose and with the intention that the recipient of the food or food ingredient would not have to pay for the food; and

(b) safe to consume at the time it left the possession or control of the donor.

(2) Where the food or food ingredient or both is of a nature that required it to be handled in a particular way to ensure that it remained safe for consumption after leaving the possession or control of the donor, the donor shall not incur any civil liability, if he informs the person to whom the food is donated of the manner in which the food or food ingredient is to be handled to ensure safety.

(3) Where the food is of a nature that it must be consumed within a particular period of time after leaving the possession or control of the donor, the donor shall not incur any civil liability if, he informs the person to whom the food is donated of the time within which the food is to be consumed to ensure its safety.

Mechanism
for
monitoring
and review.

7. The Central Government shall by notification in the Official Gazette, prescribe the mechanism to be adopted by the appropriate Government for the purposes of monitoring and review of implementation of this Act by the supermarket operators and person engaged in charitable purposes.

Power to
make rules.

8. (1) The appropriate Govt. in consultation with the Central Government, by notification, in the Official Gazette of the State or UT make rules for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

(3) Every rule made by a State Government or the Union Territory Government with legislative as the case may be, shall be laid, as soon as may be after it is made, before each House of the State Legislature or the Union Territory Legislature, as the case may be.

STATEMENT OF OBJECTS AND REASONS

Food waste and loss has been rapidly increasing in India. According to the United Nations Food and Agriculture Organisation (FAO), every year around 1.7 billion tonnes, or almost one third of food produced for human consumption, is lost or wasted globally.

As per the Global Hunger Index, 2017 India has a rank of 100 out of 119 countries. The NFHS-4 (2015&16) estimated 46.8 million under five children in India are stunted and this represents one-third of total stunted children across the globe. Food loss and waste also amount to a major squandering of resources, including water, land, energy, labour and capital and needlessly produce greenhouse gas emissions, contributing to global warming and climate change.

However, at retail level, large quantities of food is wasted due to quality standards that over-emphasize, appearance. Supermarkets bin good quality food approaching its best-before date. The best before date is about quality and not safety. The food will be safe to eat after this date but may not be at its best. Therefore, food past its best before date but before its use by date is wasted. It is proposed to force supermarkets to stop throwing away perfectly edible food remaining unsold. Supermarkets shall be required to donate their unsold food products still suitable for consumption to authorized charities by entering into contracts with these authorized charities. This will help combat food waste at the national level and eradicate hunger and malnutrition in India.

Hence this Bill.

MAHESH PODDAR

FINANCIAL MEMORANDUM

The Bill does not involve any expenditure of recurring or non-recurring nature from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to frame rules by notification in the Official Gazette, to carry out the provisions of the Bill. The rules to be framed by the appropriate Government pertain to matters of administrative detail only, which cannot be laid down in the Bill itself. The delegation is, therefore, normal in character.

XI

Bill No. LI of 2018

A Bill to amend the Micro, Small and Medium Enterprises Development Act, 2006.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Micro, Small and Medium Enterprises (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Section 2. **2.** In the Micro, Small and Medium Enterprises Development Act, 2006, (hereinafter referred to as the Principal Act)—in section 2, in clause (n), for the words "a micro or small enterprise" the words "a micro, small or medium enterprise" shall be substituted. 27 of 2006.

3. In the principal Act, in Chapter V, for the heading the following heading shall be substituted, namely:—

Amendment of heading of chapter V.

"DELAYED PAYMENTS TO MICRO, SMALL AND MEDIUM ENTERPRISES"

4. In the principal Act after section 15 the following section shall be inserted, namely:—

Insertion of new section 15A.

Refund of earnest money deposit.

"15A. The refundable earnest money deposit given to any buyer by any supplier for a tender bid shall be refunded back if the bid is unsuccessful, on or before the date agreed upon between buyer and the supplier in writing or, where there is no agreement in this behalf, within 45 days from the day the bid has been rendered unsuccessful."

5. In the principal Act, in section 16, after the words and figures "as required under section 15", the words and figures or "15A" shall be inserted.

Amendment of section 16.

6. In the principal Act, for section 19, the following section shall be substituted, namely:—

Amendment of section 19.

Application for setting aside decree, award or order.

"19. No application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the Council, shall be entertained by any Court unless the appellant has deposited with it seventy-five per cent, of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such court:

Provided that nothing in the section shall apply to any application if the appellant is a supplier.

Provided further that pending disposal of the application to set aside the decree award or order, the court shall order that such percentage not lesser than thirty-five percent under any circumstance, of the amount deposited shall be paid to the supplier, as it considers reasonable under the circumstances of the case, subject to such conditions as it deems necessary to impose should be".

7. In the principal Act in section 21 in sub-section (3), the following proviso shall be inserted, namely:—

Amendment of section 21.

"Provided that no act or proceedings of the Micro and Small Enterprises Facilitation Council shall be invalid merely by reasons of—

(a) any vacancy in, or any defect in the constitution of, the Council; or

(b) any defect in the appointment of a person acting as a member of the Council; or

(c) any irregularity in the procedure of the Council not affecting the merits of the case."

8. In the principal Act, after section 21, the following sections shall be inserted, namely:—

Insertion of a new section 21A and 21 B.

5 of 1908.

"21A. The Micro and Small Enterprises Facilitation Council shall have the same powers as are vested in a civil court under Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

Power of the Micro and small enterprises facilitation council.

(i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath,

(ii) the discovery and production of any document or other material object producible as evidence,

(iii) the receiving of evidence on affidavits, and

(vi) any other matter which may be prescribed."

Recovery of
amounts due.

"21B. Where any amount is due from any person under an order made by the Micro and Small Enterprises Facilitation Council, the person entitled to the amount may make an application to the Micro and Small Enterprises Facilitation Council and such Micro and Small Enterprises Facilitation Council may issue a certificate for the said amount to the Collector of the district (by whatever name called) and the Collector shall proceed to recover the amount in the same manner as arrears of land revenue."

Amendment
of section 27.

9. In the principal Act, in section 27, after sub-section (1) namely:—

"(2) Where a buyer contravenes the provisions of section 15 or 15A, he shall be punishable—

(a) in the case of the first conviction, with fine which may extend to rupees ten thousand;

(b) in the case of second or subsequent conviction, with fine which shall not be less than rupees ten thousand but may extend to rupees one lakh; and

(c) The proceeds collected under sub-section (2) shall be transferred to the National Small Industries Corporation."

STATEMENT OF OBJECTS AND REASONS

Micro, Small and Medium Enterprises (MSMEs) are the bedrock of the Indian economy. After agriculture sector, MSMEs are the largest employment providers in the country and hence form the backbone of the Indian economy. The significance of MSMEs can be underscored by its substantial manufacturing output, accounting for about one-third of the country's total manufacturing output.

The Parliamentary Standing Committee on Industry, Rajya Sabha in its 245th Report, on Review of the Implementation of Micro, Small and Medium Enterprises Development Act, 2006 apprehended that decline in the filing of fresh cases may be due to dwindling faith in the efficacy of the existing mechanism. It also reiterated its earlier recommendation contained in its 176th Report that arrangements should be made to give Councils the powers to enforce their awards. The Committee recommended to the Ministry to assess whether enjoining the Industrial Facilitation Council (IFC) with the provisions of Arbitration and Conciliation Act, 1996, has actually rendered the existing mechanism ineffective and to devise more effective provisions for IFC.

This Bill aims to revitalize the Industrial Facilitation Councils relating to the issue of delayed payments to MSMEs and by equipping them with powers conferred to a civil court. This will help the MSMEs in recovering their dues swiftly.

Hence this Bill.

MAHESH PODDAR

XII

BILL No. XXXV OF 2018

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the code of Criminal Procedure (Amendment) Act, 2018. 2 of 1974.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of Section 95
of Act 2 of
1974.

2. For sub-section (1) of section 95 of the code of Criminal Procedure, 1973 the following shall be substituted, namely:—

"(1) Where—

(a) any newspaper, or book, or

(b) any document, wherever printed, appears to the State Government to contain any matter the publication of which is punishable under section 124A or section 153A

45 of 1860.

or section 153B or section 292 or section 293 or section 295A of the Indian Penal Code the State Government may, after obtaining an order from the High Court, by notification, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise and police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be."

STATEMENT OF OBJECTS AND REASONS

1. It is necessary in a democratic society to have the freedom of speech and expression safeguarded from arbitrary actions of the State. Censorship laws cannot be given such wide powers without checks as the abuse of it can prevent the dissemination of not only bona fide artistic expressions but also of legitimate criticism and dissent towards the Government or other groups.

2. Section 95 of the Code of Criminal Procedure allows for the State to forfeit any material if it merely "appears" to the State that the publication has violated any of the given provisions of the Indian Penal Code. The same can be done through a simple notification being issued by the State giving its "opinion". This provides for the State to censor almost any publication on the basis of an 'opinion' that it is in violation of certain provisions of the penal code.

3. In such a situation, the role of the judiciary appears only when the author of the publication approaches the court for the restoration of the publication. The burden is then upon the interested applicant to show the court that the grounds relied by the State for forfeiture of the material was wrong. This imposes an unnecessary burden not only upon the author of the publication but also upon the court itself.

4. It is also seen through the decision of the Supreme Court in the case of *Shreya Singhal vs. Union of India* (2015), the importance of having adequate safeguards to the freedom of speech and expression and the requirement of having a prior court order before the executive can restrict the particular freedom of the citizen.

5. It is necessary for the court to decide upon the validity of the opinions of the State first before allowing for the forfeiture of material. This safeguard will ensure that the provision is not abused and is not detrimental to the freedom of free speech and expression.

6. Hence, the present Bill.

V. VIJAYASAI REDDY

XIII

BILL NO. XXXVII OF 2018

A Bill further to amend the Registration of Births and Deaths Act, 1969.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Registration of Births and Deaths (Amendment) Act, 2018. Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

18 of 1969. **2.** In the Registration of Births and Deaths Act, 1969 (hereinafter referred to as the principal Act), in the long title, for the words "births and deaths", the words "births, marriages and deaths" shall be substituted. Amendment
of long title.

3. In section 1 of the principal Act,—

In sub section (1) for the words "Births and Death", the words "Births, Marriages and Deaths", shall be substituted. Amendment
of section 1.

Substitution
of reference
of certain
expressions
by certain
other
expressions.

4. Throughout the principal Act (except section 8, 9 and 10) for the words "births and deaths", "births or deaths", "every birth and of every death" wherever they occur, the words "births, marriages and deaths", "births or marriages or deaths" and "every birth, every marriage and of every death", as the case may be, shall respectively be substituted; and such other consequential amendments as the rules of grammar may require shall also be made.

Amendment
of section 2.

5. In section 2 of the principal Act, in sub section (1) after clause (d), the following clause shall be inserted:—

"(da) "marriage" means and includes a marriage solemnized between a male and female belonging to any caste or religion or tribe under any law for the time being in force and includes marriages solemnized under any custom or usage in any form or manner recognised by law or the marriage registered under any law for the time being in force and also includes remarriage;"

Amendment
of section 7.

6. In section 7 of the principal Act after sub section (2) the following sub section shall be inserted:—

"(2A) Every Registrar shall, on payment of prescribed fees, enter in the register maintained for the purpose, all information given to him under section 8A and shall also take steps to inform himself carefully of every marriage which takes place in his jurisdiction and to ascertain and register the particulars required to be registered."

Insertion of
new sections
8A and 8B.

7. After section 8 of the principal Act, the following sections shall be inserted:—

Persons
required to
register
marriages.

"8A. (1) For the purposes of facilitating the proof of marriages, the parties to the marriages, shall either themselves, or through the persons specified below, give or cause to be given, either orally or in writing, according to the best of their knowledge and belief, within such time as may be prescribed, information and requisite documents and fees to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under sub-section (1) of section 16,—

(a) in respect of marriage in a house, whether residential or non-residential, not being any place referred to in clauses (b) and (c), the head of the house, and in the absence of any such person, the oldest adult person present therein during the said period;

(b) in respect of marriage in a temple, church, mosque, synagogue or such other religious place, the priest or such other person, by whatever name called, officiating such marriage or the trustee or any other person in charge thereof;

(c) in respect of marriage in a place specifically used for conducting marriages, including marriage halls, choultry, chattram, hotels or such other place, the person in charge thereof;

(d) in respect of marriage in an open place or field or ground, the headman or other corresponding officer in the case of a village and the officer in charge of the local police station elsewhere;

(e) in any other place, such person as may be prescribed.

(2) It shall be the duty of the parties to the marriage and the persons referred in clauses (a) to (e) to ensure registration of the marriage and to give necessary information and documents relating to such marriage to the Registrar within such time and in such manner as may be prescribed.

(3) Without prejudice to the provisions contained in this Act, the State Government may make rules providing that the parties to a marriage may have particulars relating to their marriage entered in such manner and subject to such conditions as may be prescribed.

8B. The Registrar shall not refuse to register any marriage for which a duly filled up and signed form has been received by him except on such grounds as may be prescribed:

Refusal to register marriage.

Provided that different grounds may be specified by rules for different class or classes of persons to marriage."

8. In section 23 of the principal Act,—

Amendment of section 23.

(i) in sub section (1), in clause (a), for the words and figures "section 8 and 9", the words, figures and letter "section 8 or section 8A or section 9" shall be substituted;

(ii) after sub section (1), the following sub section shall be inserted, namely:—

"(1A) Any person who contravenes the provisions of sub section (2) of section 8A, shall be punishable with fine which may extend to fifty rupees."

9. After section 29 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 29A.

"29A. The provisions of this Act relating to registration of marriage shall be in addition to, and not in derogation of, any other law for the time being in force and the registration of marriages of the parties under this Act shall not be deemed to affect any right recognised or acquired by any such party under any law, custom or usage."

Act not in derogation of any other law.

10. In section 30 of the principal Act,—

Amendment of section 30.

(i) after clause (a), the following clause shall be inserted:—

"(a.a) the fees under sub section (2A) of section 7;"

(ii) after clause (b), the following clauses shall be inserted:—

"(b.a) the period within which information should be given to the Registrar under sub section (1) of section 8A;

(b.b) the persons under clause (e) of section 8A;

(b.c) the manner and the conditions under sub section (3) of section 8A;

(b.d) the grounds under section 8B;"

(iii) after clause (c), the following clause shall be inserted:—

"(c.a) the time and the manner for giving information under sub section (2) of section 8A;"

11. After section 30 of the principal Act, the following section shall be inserted,;—

Insertion of new section 30A.

"30A (1) The Central Government may, by notification in the Official Gazette, make such provisions for implementation of the provisions of this Act and for carrying out the purposes of this Act.

Power of Central Government to make rules.

(2) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act specified in the notification—

(a) shall not apply to any marriages solemnised under any Act for the time being in force or any customs or usage recognised in law;

(b) shall apply to any marriages solemnised under any Act for the time being in force or any customs or usage recognised in law, with such exceptions, modifications and adaptations as may be specified in the notification."

12. In section 31 of the principal Act, after sub section (2) the following sub section shall be inserted:

Amendment of section 31.

"(3) Nothing contained in sub-sections (1) and (2) shall apply to any matter or law relating to marriages including the Anand Marriage Act, 1909 or any State law or to any rules or notification or order making provisions for registration of marriages in any state."

7 of 1909

STATEMENT OF OBJECT AND REASONS

The provisions with regard to the registration of marriages seeks to prevent the abuse of the institution of marriage in the country. Countless marriages are solemnized without formal recognition or registration as the existing law does not mandate as such.

2. The Bill seeks to address issues such as child marriages, fraudulent marriages, enable married women to effectively exercise their right to claim shelter and maintenance, prevent practices whereby men desert women and particularly prevent polygamy. A number of State have in place State laws which seek to prevent the same by means of providing for compulsory registration of marriages but keeping in mind the public importance of it, a uniform law mandating the same throughout the country is required.

3. There is a need to protect the rights and interests of women and children and safeguard their position in society against fraudulent practices. The Bill seeks to ensure the same. The Supreme Court of India in *Seema v. Ashwani Kumar & Ors* (2006) had stated the necessity of compulsory registration of marriages. Furthermore, India has signed and ratified the Convention on the Elimination of All Forms of Discrimination against Women. The Committee on the Elimination of Discrimination Against Women (CEDAW) had urged for compulsory registration of marriage in 2014. Thereby, it is necessary to ensure that a provision mandating the registration of marriages is introduced.

Hence, the Bill.

V. VIJAYASAI REDDY.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of powers is of normal character.

XIV

BILL NO. LVIII OF 2018

A Bill to declare certain provisions of the laws relating to contracts and specific performance, as procedural and substantive, to further define unfairness in contracts, as procedural and substantive, to determine impact of unfairness on contracts, to provide guidelines for such determination and to enable Courts to grant certain reliefs to parties from the effect of unfairness in contracts.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Unfair (Procedural and Substantive) Terms of Contracts Act, 2018. Short title,
extent and
commencement.

(2) It extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) 'contract' means a contract as defined in clause (h) of section 2 of the Indian Contracts Act, 1872 and includes an agreement as defined in clause (e) of section 2 of that Act.

	(b) 'court' means a Civil Court of competent jurisdiction and includes every Consumer Dispute Redressal Agency referred to in section 9 of the Consumer Protection Act, 1986 and an Arbitral Tribunal referred to in clause (d) of sub-section (1) of section 2 of the Arbitration and Conciliation Act, 1996.	68 of 1986
	(c) Words and expressions not defined in this Act and defined in the Indian Contract Act, 1872 shall have the meanings assigned to them respectively in that Act.	26 of 1996
Procedural provisions of the Act.	3. The following provisions of the Indian Contract Act, 1872 shall be procedural namely:— (a) section 15 which deals with coercion, (b) section 16 and 19A which deal with undue influence, (c) section 17 which deals with fraud, (d) section 18 which deals with misrepresentation, (e) section 19 which deals with agreements without free consent.	9 of 1972
Procedural provisions of the Act.	4. The following provisions of the Specific Relief Act, 1963 shall be procedural, namely:— (a) clause (a) of sub-section (2) of section 20 in so far as it deals with the conduct of the parties at the time of entering into the contract or the other circumstances under which the contract was entered into are such that the contract, though not voidable, gives the plaintiff an unfair advantage over the defendant. (b) clause (c) of sub-section (2) of section 20 which deals with a defendant who entered into the contract under circumstances which though not rendering the contract voidable, makes it inequitable, to enforce specific performance. (c) clause (a) of sub-section (1) of section 27 which deals with a contract voidable or terminable by the plaintiff and where any person interested in the contract sues to have it rescinded and such rescission is adjudged.	47 of 1963
General procedural unfairness.	5. Without prejudice to the provisions of sections 3 and 4, a contract or a term thereof shall be procedurally unfair if it results in an unjust advantage or unjust disadvantage to one party on account of the conduct of the other party or the manner in which or circumstances under which the contract has been entered into or the term thereof has been arrived at by the parties.	
Guidelines for determining general procedural unfairness.	6. For the purposes of section 5, a Court may take into account the following circumstances, namely:— (a) the knowledge and understanding of the promisee in relation to the meaning of the terms thereof or their effect; (b) the bargaining strength of the parties to the contract relative to each other; (c) reasonable standards of fair dealing or commonly accepted standards of dealing; (d) whether, or not, prior to or at the time of entering into the contract, the terms were subject to negotiation or were part of a standard terms contract; (e) whether or not it was reasonably practicable for the party seeking relief to negotiate for the alteration of the contract or a term thereof or to reject the contract or a term thereof; (f) whether expressions contained in the contract are unreadable or incomprehensible.	

(g) whether or not, even if he or she had the competency to enter into the contract based on his or her capacity and soundness of mind, he or she,—

(i) was not reasonably able to protect his or her own interests or of those whom he or she represented at the time the contract was entered;

(ii) suffered serious disadvantages in relation to other parties because he or she was unable to appreciate adequately the contract or a term thereof or their implications by reason of age, sickness, physical, mental, educational or linguistic disability, emotional distress or ignorance of business affairs.

(h) whether or not independent legal or other expert advice was obtained by the party seeking relief under this Act;

(i) the extent, if any, to which the provisions of the contract or a term thereof or their legal or practical effect were accurately explained by any person, to the party seeking relief under this Act;

(j) the conduct of the parties to the contract in relation to similar contracts or courses of dealing to which any of them had been party; or

(k) whether a party relied on the skill, care or advice of the other party or a person connected with the other party in entering into the contract.

9 of 1872

7. The following provisions of the Indian Contract Act, 1872 shall be substantive, namely:—

Substantive provisions of Act.

(a) section 10 which deals with agreements which are contracts if made by free consent of parties competent to contract, for a lawful consideration and with a lawful object, not otherwise expressly declared to be void,

(b) section 20 which deals with both the parties to an agreement who are under a mistake,

(c) section 23 and 24 which deal with consideration or objects of an agreement which are not unlawful,

(d) section 25 which deals with an agreement without consideration,

(e) section 26 which deals with an agreement in restraint of marriage of any person, other than a minor,

(f) section 27 which deals with an agreement in restraint of trade,

(g) section 28 which deals with an agreement in restraint of legal proceedings,

(h) section 29 which deals with an agreement which is uncertain,

(i) section 30 which deals with an agreement by way of wager, and

(j) section 56 which deals with an agreement to do an act impossible in itself.

47 of 1963

8. Clause (a) of section 18 of the Specific Relief Act, 1963 where on account of fraud, mistake of fact or misrepresentation, the written contract of which performance is sought, is in terms or effect different from what the parties agreed to, or does not contain all the terms agreed to between the parties on the basis of which the defendant entered into the contract, shall be substantive.

Substantive provisions of Act.

9. A contract or a term thereof shall be deemed to be substantively unfair if it,—

(a) excludes or restricts liability for negligence;

(b) excludes or restricts liability for breach of express or implied terms of a contract without adequate justification therefor.

Exclusion or restriction of certain liabilities to be substantively unfair.

Exclusion or restriction of rights, duties or liabilities.

10. In contracts to which this Act applies as stated in sub-section (1) of section 18, any exclusion or restriction of the rights, duties or liabilities referred to in section 62 of the Sale of Goods Act, 1930 shall be deemed to be substantively unfair unless there is adequate justification therefor.

Application of terms of foreign country law.

11. Where a contract contains terms applying or purporting to apply the law of a foreign country despite the contract being in every respect wholly unconnected with the foreign country, such terms shall be deemed to be substantively unfair.

General substantive unfairness.

12. Without prejudice to the provisions of sections 7 and 8 of this Act, a contract or a term thereof shall be substantively unfair if such contract or the term thereof is in itself harsh, oppressive or unconscionable to one of the parties.

Guidelines for determining general substantive unfairness.

13. For the purposes of sections 9 to 12 of this Act, the Court may take into account the following circumstances, namely:—

(i) whether or not the contract or a term thereof imposed conditions which are,—

(a) unreasonably difficult to comply with, or

(b) not reasonably necessary for the protection of the legitimate interests of any party to the contract;

(ii) whether the contract is oral or wholly or partly in writing;

(iii) whether the contract is in standard form;

(iv) whether the contract is in standard form;

(v) whether the contract or a term thereof is contrary to reasonable standards of fair dealing or commonly accepted standards of dealing;

(vi) whether the contract, agreement or a term thereof has resulted in a substantially unequal exchange of monetary values or in a substantive imbalance between the parties;

(vii) whether the benefits to be received by the disadvantaged party are manifestly disproportionate or inappropriate to his or her circumstances;

(viii) whether the disadvantaged party was in fiduciary relationship with the other party; or

(ix) whether the contract or a term thereof,—

(a) requires manifestly excessive security for the performance of contractual obligations; or

(b) imposes penalties which are disproportionate to the consequences of a breach of contract; or

(c) denies or penalises the early repayment of debts; or

(d) entitles a party to terminate the contract unilaterally without good reason or without paying reasonable compensation; or

(e) entitles a party to modify the terms of a contract unilaterally.

Burden of proof.

14. If a contract or a term thereof excludes or restricts liability as stated in clause (b) of section 9 or excludes rights, duties and liabilities referred to in section 62 of the Sale of Goods Act, 1930 as stated in section 10, the person relying on such exclusion or restriction shall prove that it is not without adequate justification.

Provisions of the Act to apply for executed contracts.

15. The Court may grant relief on the basis of sections 5, 6, 9 to 14 of this Act in relation to a contract notwithstanding that the contract has been wholly or partly executed and for that purpose it may consider whether and to what extent restitution is possible in the facts and circumstances of the case and where such restitution is not, either wholly or partly possible, whether any compensation is payable.

16. A Court may, in proceeding before it, raise an issue as to whether a contract or its terms are unfair under sections 5, 9 to 12, even if none of the parties has raised the issue in its pleadings.

Court's power to raise an issue of unfairness of contract or a term thereof.

9 of 1872
47 of 1963
3 of 1930

17. (1) Without prejudice to the provisions in the Indian Contract Act, 1872 **Specific Relief Act, 1963** Sale of Goods Act or to the provisions of any other law for the time being in force, where the Court comes to the conclusion having regard to section 5, 6, 9 to 14 that a contract or a term thereof is either procedurally or substantively unfair or both, the Court may grant any one or more of the following reliefs:—

Relief to be granted by Court.

- (a) refusing to enforce the contract or the term thereof;
- (b) declaring the contract or the term is unenforceable or void;
- (c) varying the terms of contract so as to remove the unfairness;
- (d) refund of the consideration or price paid;
- (e) compensation or damages;
- (f) permanent injunction;
- (g) mandatory injunction; or

(h) any other relief which the interests or justice require as a consequence of the non-enforcement of the contract or the term thereof which is unfair. Provided that where the contract or its term is procedurally unfair as stated in section 5, the person who suffers the disadvantage may, at this option, insist that the contract or term shall be performed, and that he may be put in the position in which he would have been if the conduct, manner or circumstances referred to in that section did not permit the disadvantageous term to form part of the contract.

(2) For the purpose of granting the reliefs under sub-section (1), the Court may determine if any of the terms of the contract which are unfair are severable and may thereafter determine whether and to what extent and in what manner, the remaining terms of the contract shall be enforced or given effect to.

18. The provisions of this Act, other than sections 3, 4, 7 and 8, shall: (a) apply to all contracts entered into after the commencement of this Act and (b) shall not apply to:

Applicability of the Act and exemptions.

- (i) contracts and relations between employers and workmen under the labour laws in force;
- (ii) public employment under the Central Government or a State Government or their instrumentalities or under local authorities;
- (iii) employment under public sector undertakings of the Central Government or a State Government;
- (iv) employment under corporations or bodies established by or under statutes made by Parliament or State Legislatures; and
- (v) contractual terms in respect of which measures are provided in international treaties or agreements with foreign countries to which the Central Government is a signatory.

STATEMENT OF OBJECTS AND REASONS

The subject of 'Unfair Terms in Contract' has attained profound significance in the recent times, in relation to both consumer contracts and other contracts. The tremendous expansion in economic activity has led to the need for greater ease of business in the country. Hence, it becomes important to have a comprehensive set of laws to deal with 'unfairness' in contracts. This would not only protect the weaker party against the stronger but also create a just and conducive environment for doing business in the country.

In the last two decades, several countries have undertaken new laws on the subject in order to protect small businessmen and consumers and particularly to grant protection from the disadvantages of extensive introduction of standard terms of contracts which are one sided.

Another important aspect is the division of unfairness into 'procedural' and 'substantive' unfairness to have separate focus on both the aspects. A contract or a term thereof is *procedurally unfair* if it has resulted in an unjust advantage or unjust disadvantage to one party on account of the conduct of the other party or the manner in which or the circumstances under which the contract has been entered into or the term thereof has been arrived at by the parties. A contract or a term thereof is substantively unfair if such contract or the term thereof is in itself harsh, oppressive or unconscionable to one of the parties.

The Indian Contract Act, 1962 has several provisions relating to 'voidable contracts'. These provisions deal with undue influence, coercion, mistake, misrepresentation, etc. and are 'procedural' provisions. Likewise, the Contract Act deals with 'void' contracts or 'void' terms. These are 'substantive' provisions. Similarly, the Specific Relief Act, 1963 contains provisions for granting relief whether there is procedural or substantive unfairness. However, no clear demarcation of unfairness has been provided by the law till date.

The Bill declares certain provisions of the Indian Contract Act, 1872 and Specific Relief Act, 1963 as procedural and substantive and provides statutory guidelines for each of their determination by courts. Absence of such guidelines leaves them to judicial interpretation and results in uncertainty of outcome for the parties involved. A clear demarcation would ensure both clarity and certainty of law which is of extreme importance in a democracy.

Hence, this Bill.

V. VIJAYASAI REDDY

XV

BILL NO. XXXVI OF 2018

A Bill further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Sixty-ninth year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 2018.

Short, title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

5 of 1908.

2. For section 35A and section 35B in the Code of Civil Procedure, 1908, the following sections shall be substituted, namely—

Amendment
of sections
35A and 35B.

"35A. (1) If in any suit or other proceedings, including an execution proceedings but excluding an appeal or a revision, any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if

Costs in
respect of false
or vexatious
claims or
defences.

thereafter, as against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part, the Court, if it so thinks fit, may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the object or by the party by whom such claim or defence has been put forward, of such compensatory, punitive and prohibitive costs as appear to the Court to be in the interest of justice.

(2) In determining the amount of costs under sub-section (1), the court shall give due regard to the inconvenience faced by the objector against whom false or vexatious claims were made, the costs of litigation, the loss of reputation of the objector due to such claims and the loss of judicial time:

Provided that no Court shall make any such order for the payment of an amount exceeding the limits of its pecuniary jurisdiction.

(3) No person against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of any claim or defence made by him.

(4) The amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence."

Costs for
causing delay.

"35.B (1) If, on any date fixed for the hearing of a suit or for taking any step therein, a party to the suit—

(a) fails to take the step which he was required by or under this Code to take on that date, or

(b) obtains an adjournment for taking such step or for producing evidence or on any other ground,

the Court shall make an order imposing such compensatory, punitive and prohibitive costs as appear to the Court to be in the interest of justice and payment of such costs, on the date next hearing following the date of such order, shall be a condition precedent to the further prosecution of—

(a) the suit by the plaintiff, where the plaintiff was ordered to pay such costs,

(b) the defence by the defendant, where the defendant was ordered to pay such costs.

Explanation.—Where separate defences have been raised by the defendant or groups of defendants, payment of such costs shall be a condition precedent to the further prosecution of the defence by such defendant or groups of defendants as have been ordered by the Court to pay such costs.

(2) In determining the amount of costs under sub-section (1), the court shall give due regard to the inconvenience faced by the other party due to delays caused by the delinquent party, the costs of litigation and the loss of judicial time:

Provided that no Court shall make any such order for the payment of an amount exceeding the limits of its pecuniary jurisdiction.

(3) The Court may, for reasons to be recorded, exempt invocation of clause (1) if it so deems, fit."

STATEMENT OF OBJECTS AND REASONS

The fact that our justice delivery system is in dire need of reform has been indisputable for years. The number of cases pending in our courts vouch for it. While the pendency of criminal cases has often been under focus, there has been little headway on the civil front. As per 2014 statistics, over 31 lakh civil cases were pending in High Courts. The corresponding figure for District and Subordinate Courts was a whopping 82 lakh. An even alarming aspect of this was that from amongst these cases, the cases that were pending for more than 10 years stood as 5,89,000 and 6,11,000 respectively for the High Courts and the subordinate courts respectively.

A major cause of prolonged judicial proceedings is the tendency among parties to litigation to seek adjournments on one excuse after the other. Moreover, many a time parties make unsubstantiated claims in judicial proceedings and employ it as a dilatory tactic to delay timely conclusion of the proceedings.

The Code of Civil Procedure, 1908 has had provisions to take care of such practices. However, these provisions have largely proved to be inadequate to address the malaise of prolonged judicial proceedings due to various reasons. Firstly, it is discretionary for the courts to impose costs for causing delays and courts have largely shown a disinclination to impose penalties. As a result, litigants often try to delay judicial proceedings and get away without any penalty.

Secondly, section 35A of the Code of Civil Procedure provides for only compensatory costs in respect of false or vexatious claims or defences and disregards the need to impose punitive costs on delinquent parties so as to prohibit them from making false or vexatious claims or defences.

Thirdly, the said section lays down an upper limit of a mere three thousand rupees for compensatory costs and that too is seldom invoked. Though the Supreme Court and the High Courts have plenary powers under their writ jurisdiction to award higher costs, the exercise of power to impose costs by the lower courts is largely fettered by the monetary ceiling laid down under section 35A.

Sections 35A and 35B, therefore, need to be revisited to make them effective in addressing delays in courts.

With the above objects in view, the Bill seeks to propose the following amendments in the Code of Civil Procedure:—

(a) to make it mandatory for courts to impose costs for causing delays. However, the courts may dispense with the requirement to impose such costs in certain exceptional cases.

(b) to provide that punitive costs shall be imposed on delinquent parties which try to make false or vexatious claims or defences in order to deter them from resorting to such practices;

(c) to remove the maximum ceiling of three thousand rupees on costs which can be imposed under section 35A of the Code;

(d) to provide that the factors such as inconvenience faced by the aggrieved party, costs of litigation and loss of judicial time shall be taken into account by the courts while imposing costs on delinquent parties so that the costs imposed are prohibitive.

The Bill seeks to achieve the above objects.

Hence, this Bill.

NARAYAN LAL PANCHARIYA

XVI

BILL NO. VII OF 2019

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of First Schedule. **2.** In the First Schedule to the Code of Criminal Procedure, 1973, under the heading "I.—OFFENCES UNDER THE INDIAN PENAL CODE", 2 of 1974.

(i) for the entry relating to section 326, the following entries shall be substituted, namely:—

1	2	3	4	5	6
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.

(ii) for the entry relating to section 377, the following entries shall be substituted, namely:—

1	2	3	4	5	6
377	Unnatural offences.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.

(i) for the entry relating to section 467, the following entries shall be substituted, namely:—

1	2	3	4	5	6
467	Forgery of a valuable security, will or authority to make or transfer any valuable security, or to receive any money, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session
	When the valuable security is a promissory note of the Central Government.	Ditto	Cognizable	Ditto	Ditto

STATEMENT OF OBJECTS AND REASONS

Sections 326, 377 and 467 of the Indian Penal Code provide for punishment for the offences of voluntarily causing grievous hurt, unnatural offences and forgery of valuable security, will etc. respectively. These sections prescribe a punishment of life imprisonment or imprisonment of either description for a term which may extend to ten years and fine.

The First Schedule to the Code of Criminal Procedure lays down that the offences under these sections are triable by a Magistrate of the first class. However, under section 29 of the Code of Criminal Procedure, a first class Magistrate does not have the power to award the sentence of imprisonment for life or imprisonment for ten years. The power to award these sentences is vested in the Court of Session. Though there is a provision under section 325 of the Code of Criminal Procedure which allows a Magistrate to transfer proceedings to the Chief Judicial Magistrate when he himself cannot pass sentence sufficiently, this still does not address the inconsistency between the provisions of sections 326, 377 and 467 and the First Schedule to the Code of Criminal Procedure because even a Chief Judicial Magistrate is not empowered to award punishment of imprisonment for life or imprisonment for 10 years.

In order to address the above inconsistency, the First Schedule to the Code of Criminal Procedure needs to be amended so as to provide that the offences under sections 326, 377 and 467 shall be triable by the Court of Session.

The Bill seeks to achieve the above objects.

NARAYAN LAL PANCHARIYA

XVII

BILL NO. XLI OF 2018

A Bill to develop a new method of implementing reservation policy through the weighted indexing system, to achieve social justice and reservation benefits to the most deserving individuals and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Other Backward Classes (Sub-Categorization) Act, 2018. Short title, extent and commencement.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.
2. In this Act, unless the context otherwise requires,— Definitions.
- (a) "Chairperson" means the chairperson of the Commission for Sub-Categorization of Other Backward Classes, appointed under sub-section (2) of section 4 of this Act;

(b) "Commission" means the Commission for Sub-Categorization of Other Backward Classes, set up under section 3 of the Act;

(c) "District Reservation Office" means the authority set up under section 11 of the Act, which shall implement the Weighted Indexing System;

(d) "Other Backward Classes" means such backward classes of citizens other than Scheduled Castes and Scheduled Tribes as may be prescribed by the Central Government;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Weighted Index Score" means the score that will be assigned to every individual belonging to a group notified as an Other Backward Class by the Central Government; and

(g) "Weighted Indexing System" means the formula used for determining the Weighted Index Score, as given in sub-section (2) of section 9 of the Act.

CHAPTER II

COMMISSION FOR SUB-CATEGORIZATION OF OTHER BACKWARD CLASSES

Establishment
of a
commission
for Sub-
Categorization
of Other
Backward
Classes.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Commission for Sub-Categorization of Other Backward Classes, to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The head office of the Commission shall be at New Delhi.

Composition
of the
Commission.

4. (1) The Commission shall consist of a Chairperson and eight members.

(2) The Chairperson of the National Commission for Backward Classes shall also be the Chairperson for the Commission for Sub-Categorization of Other Backward Classes.

(3) The eight members referred to in sub-section (1) of section 3 shall be appointed by the Central Government, in consultation with the Chairperson amongst whom:—

(i) three members shall be eminent persons of ability and integrity, who have a thorough understanding and expertise of reservation policy; and have experience of working for the development of Other Backward Classes:

Provided that at least one such member shall be a woman; and

(ii) two members shall be eminent persons of ability and integrity, who, have a thorough understanding and experience of working in various fields of social sciences; and have experience of working for the development of Other Backward Classes; and

(iii) three members shall be eminent persons of ability and integrity, who, have a thorough understanding and expertise in the fields of statistics and mathematics; and have experience of working with and implementing different statistical measuring techniques:

Provided that at least one such member shall be a woman.

Terms and
Conditions of
Chairperson
and members
of
Commission.

5. (1) The Chairperson and every member of the Commission shall hold office for a term of two years from the date on which he assumes office and shall be eligible for re-appointment:

Provided that the Chairperson or any member shall not hold office after attaining the age of seventy years:

Provided further that the Chairperson or any member shall not be allowed to hold office after completion of two terms.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson or a member may:—

(a) resign by giving in writing to the Central Government, a notice of not less than six months; or

(b) be removed from office in accordance with the provisions given in section 6.

(3) **The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and other members shall be such as may be prescribed by the Central Government.**

6. The Central Government may, by order, remove from office the Chairperson or a member, if the Chairperson or a member:—

(a) becomes physically or mentally unable to continue in their position;

(b) is convicted of an offence under the Indian Penal Code, 1860;

(c) acquires financial or other interests which may prejudice his decisions and functions;

(d) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest:

Provided that the decision of the Central Government for removal of a member from office receives approval of the Chairperson:

Provided further that the Chairperson or a member shall not be removed from office unless the Central Government gives in writing the reasons for such removal and the Chairperson or the member is given a reasonable opportunity of being heard.

7. (1) The Commission may, at any point, associate with itself any person whose advice or assistance it may desire, in carrying out the purposes of this Act.

(2) A person associated with the Commission under sub-section (1) will have a right to take part in discussions relevant to that purpose, but shall not be a member for any other purpose.

8. (1) The Commission shall meet as and when necessary, as the Chairperson may deem fit.

(2) The Commission shall regulate its own procedure.

(3) The Commission shall have the autonomy to allocate and spend the funds on the functions assigned to it under this Act.

CHAPTER III

FUNCTIONS OF THE COMMISSION FOR SUB-CATEGORIZATION OF OTHER BACKWARD CLASSES

9. (1) **The primary function of the Commission for Sub-Categorization of Other Backward Classes shall be to develop a formula, to be known as the "Weighted Indexing System" henceforth, which shall be used to implement reservation policies across India.**

(2) The Weighted Indexing System shall be a formula which shall assign a score to every individual belonging to a group notified as an Other Backward Class by the Central Government, and the score shall be known as the Weighted Index Score.

(3) The Weighted Index Score shall be used to provide reservation benefits to an individual belonging to an Other Backward Class.

(4) The Weighted Index Score shall be calculated based on several parameters, including, but not limited to, social backwardness, educational environment, family background and gender.

Removal of
Chairperson
and members
of
Commission.

Association
of persons
with
Commission.

Meeting of
Commission.

Primary
function of
the
Commission.

Other
functions of
the
Commission.

10. (I) The Commission shall also perform the following functions, namely:—

(i) determine the parameters to be adopted for the calculation of the Weighted Index Score;

(ii) review, on a periodic basis, the parameters for calculating the Weighted Index Score and revise the parameters based on the recommendations of the National Commission for Backward Classes and their own understanding;

(iii) prescribe the necessary documents required for an individual to obtain their Weighted Indexed Score under, sub-section (I) of section 13;

(iv) prescribe the time within which the Weighted Index Score shall be given to an individual;

(v) prescribe the action to be taken against the District Reservation Office under sub-section (2) of section 17;

(vi) maintain a website wherein the Weighted Index Score of every individual notified as an Other Backward Class by the Central Government shall be stored, which shall be accessible to the general public;

(vii) review and monitor the working of every District Reservation Office and every Grievance Redressal Office;

(viii) ensure coordination among every District Reservation Office and Grievance Redressal Office;

(ix) submit an annual report to the Central Government, within such time as prescribed by the Central Government, giving a full and detailed account of the activities undertaken by them in the previous year, and the Central Government shall cause every such report to be laid before both Houses of Parliament.

(x) make suggestions to the Central Government on the required financial support to implement the Weighted Indexing System and to fulfill the other functions assigned to it under this Act.

CHAPTER IV

IMPLEMENTATION OF THE WEIGHTED INDEXING SYSTEM

Establishment
of District
Reservation
Office.

11. The Commission shall set up at least one District Reservation Office in every district to implement the Weighted Indexing System:

Provided that the Commission may set up more than one District Reservation Office in a district if it deems necessary.

Appointment
and functions
of District
Reservation
Officer.

12. (I) The Commission shall appoint a District Reservation Officer in every District Reservation Office who shall be responsible for fulfilling the functions assigned to it under this Act, and any other functions as may be prescribed by the Commission.

(2) The District Reservation Officer may, with the approval of the Commission, determine the number and nature of officers and employees required by him in the discharge of the functions of District Reservation Office.

(3) The salary and allowances payable to and the other terms and conditions of service of the District Officer and other employees shall be such as may be prescribed by the Central Government.

Functions of
District
Reservation
Office.

13. (I) Any individual belonging to Other Backward Class may approach the District Reservation Office in his district with the necessary documents, as prescribed by the Commission under clause (iv) of section 10 to obtain the Weighted Index Score.

(2) The District Reservation Office in each district shall be responsible for collecting, processing and storing the documents of every individual.

(3) The District Reservation Office shall provide a Weighted Index Score Card to every individual who produces the necessary documents, which shall have his Weighted Indexed Score stored on it, within such time as prescribed by the Commission under clause (v) of section 10.

CHAPTER V

GRIEVANCE REDRESSAL MECHANISM

14. The Commission shall establish at least one Grievance Redressal Office in every district of the country:

Establishment of Grievance Redressal Office.

Provided that the Commission may establish more than one Grievance Redressal Office in a district if it deems necessary.

15. (1) The Commission shall appoint a Grievance Redressal Officer in every Grievance Redressal Office who shall be responsible for fulfilling the functions assigned to it under this Act, and any other functions as may be prescribed by the Commission.

Appointment and functions of Grievance Redressal Officer.

(2) The Grievance Redressal Officer may, with the approval of the Commission, determine the number and nature of officers and employees required by him in the discharge of the functions of the Grievance Redressal Office.

(3) The salary and allowances payable to and the other terms and conditions of service of the Grievance Redressal Officer and other employees shall be such as may be prescribed by the Central Government.

16. (1) Any individual belonging to Other Backward Class may file a complaint with the Grievance Redressal Office in his district, within a period of thirty days from the date the grievance has occurred, for either of the following reasons, :—

Functions of Grievance Redressal Office.

(a) non-receipt from the District Reservation Office of the Weighted Index Score Card within the time prescribed by the Commission; and

(b) discrimination or denial of benefits based on the Weighted Indexed Score:

Provided that the Grievance Redressal Office may admit the complaint after thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the complaint in time.

17. If the Grievance Redressal Office determines that the complainant has been treated unfairly, it shall, :—

Remedial measures to the complainant.

(a) direct the concerned office where the complainant sought employment, to immediately provide remedial measures to the complainant; and

(b) take action against the concerned office or company, as prescribed by the Commission under clause (vi) of section 10.

CHAPTER VI

MISCELLANEOUS

18. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act.

Central Government to provide adequate funds to the Commission.

19. The provisions of this Act or the rules made there under shall be in addition and not in derogation of any other legislation, rules, orders or instructions which provides any entitlement or benefit to individuals of Other Backward Classes.

Act not in derogation of any other law.

20. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not

Power to remove difficulties.

inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to
make rules.

21. (1) The Central Government may, by notification in the Official Gazette make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Historically, there have been certain castes and groups that have faced exclusion from the mainstream due to their backwardness. The basic purpose of reservation is to provide equal opportunities to these socially and educationally backward classes, so that they can progress and be accepted in the general public. Reservation systems favoring certain castes and communities had existed in various forms in India even before independence. For example, Shahu, the Maharaja of Kolhapur had introduced reservations for backward classes, which came into force in 1902. After independence, there were policies implemented to advance the interests of Scheduled Castes and Schedule Tribes. In 1978, the Mandal Commission was set up by the then government to assess the situation of socially and educationally backward classes. The Commission recommended that a quota for Other Backward Classes of 27 per cent should apply in respect of services and in public sector bodies operated by the Union Government. The recommendations were implemented in 1992.

However, even after almost three decades, the reality is that reservation policy has not achieved its basic purpose. We have not achieved social justice and reservation benefits have not reached the most backward people. In the current system, we are facing some major challenges. Firstly, there are a few socially, educationally and economically strong castes that take almost the entire advantage of reservation. This means that the weaker backward castes barely get any reservation benefits as they are unable to compete. Similarly, there are also some families within the castes that enjoy most benefits. Another major flaw with the current system is that it assumes every individual who is entitled to get a share of the 27 per cent reservation is equally backward. Treating unequals as equals is a problem this Bill seeks to address. Importantly, we must not forget that OBC stands for Other Backward Classes not caste. This means that castes were taken into account only for ease of identification and implementation when reservation benefits were given to them. This Bill addresses the problem of identifying the social and educational backwardness of a person who is in greater need of affirmative action or benefits of reservation.

To solve this issue, this Bill proposes a new method to implement reservations to deserving individuals, the Weighted Indexing System. This method will assign a score to every individual who belongs to an OBC group, and will be available to the public through digital means, including a centrally maintained website. The Weighted Index Score will be calculated based on several parameters, including, but not limited to, social backwardness, educational environment, family background and gender. This can be explained through a few examples. A student studying in a Zilha Parishad school is at a disadvantage compared to a private school student, and so the former will be given some minus marks in his/her Weighted Index Score. Another important criteria is the educational environment the individual grew up in. For example, if the parents are illiterate, it might be the case that the conditions at home will not be conducive for education, and so, some minus marks will be given to prioritize the child of illiterate parents in availing affirmative action or benefits of reservation. The decision for what will be the final criteria for assessing social and educational backwardness, and the weightage to be assigned to each criteria will be taken by the Commission. On the basis of this score, people will be given reservation benefits. The score must be developed in such a manner that a low score indicates greater backwardness and hence, higher priority will be given to a lower score in availing reservation benefits. In this system, no one is excluded from reservation benefits, unlike in the creamy layer system. The system does not change the percentage of the OBC quota. There is no reduction of quotas or seats remaining vacant because of non-availability of eligible candidates. This system will reduce the inter-caste strain, as the deserving people will get the benefit. The general public will also not oppose deserving individuals availing benefits and will not develop hatred when reservation benefits are given to right people and individuals. This system will help in taking reservation benefits to the most deserving people and achieved the basic purpose of reservation.

Hence, this bill.

DR. VIKAS MAHATME

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Commission for the Sub-Categorization of Other Backward Classes Clause 4 provides for composition of the Commission Clause 5 provides for the payment of salary and allowances to the eight members of the Commission. Clause 11 provides for setting up a District Reservation Office in every district. Clause 12 provides for the composition of the District Reservation Office. It also provides for the salary and allowances payable to the District Reservation Officer and other employees. Clause 14 provides for setting up a Grievance Redressal Office in every district. Clause 15 provides for the composition of the Grievance Redressal Office. It also provides for the salary and allowances payable to the Grievance Redressal Officer and other employees. Clause 18 provides that the Central Government shall grant funds to the Commission. The Bill, therefore, if enacted is likely to involve expenditure out of the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees three hundred crore would be involved per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Clause 5 empowers the Central Government to make regulations for salary and allowances payable to and other terms and conditions of the Chairperson and other members of the Commission. Clause 12 empowers the Central Government to make regulations for salary and allowances payable to and other terms and conditions of the District Reservation Officer and other employees of the District Reservation Office. Clause 15 empowers the Central Government to make regulations for salary and allowances payable to and other terms and conditions of the Grievance Redressal Officer and other members of the Grievance Redressal Office. As the rules and regulations will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

XVIII

BILL NO. LV OF 2018

A Bill to constitute a Committee for Food Waste Reduction which shall publish a Food Waste Reduction Strategy for the purposes of reducing food wastage and making it mandatory for supermarkets and food manufacturers to donate food and beverage products and for matters connected therewith or incidental thereto.

WHEREAS under article 47 of the Constitution of India it is the duty of the State to raise the level of nutrition and the standard of living and to improve public health.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Compulsory Food Waste Reduction Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Committee" means the Committee for Food Waste Reduction constituted under section 3;

(b) "food manufacturer" means a person engaged in the business of manufacturing any article of food for sale and includes any person who obtains such article from another person and packs and labels it for sale or only labels it for such purposes;

(c) "food redistribution organization" means a company registered under Section 8 of the Companies Act, 2013 and whose primary function is the redistribution of food and beverage products to vulnerable people;

(d) "prescribed" means prescribed by the rules made under this Act;

(e) "supermarkets" means any premises where goods are sold, either by retail or wholesale, and includes an office, a store room, godown, warehouse or workhouse or work place for distribution or packaging or repackaging of finished goods is carried out, and where at least thirty per cent. of the products sold are food and beverage products, and which has an annual revenue of at least one hundred crore rupees.

(f) "unsold in-date food" means food and beverage products, which have a shelf life of at least one month, and which are seven days away from their date of expiration.

CHAPTER II

COMMITTEE FOR FOOD WASTE REDUCTION

Constitution
of a
Committee
for Food
waste
Reduction.

Composition
of the
Committee.

3. The Central Government shall, by notification in the Official Gazette, constitute a "Committee for Food Waste Reduction", within six months of this Act coming into force.

4. (1) The Committee shall consist of:—

(a) a Chairperson to be appointed by the Central Government from amongst persons who shall:—

(i) have a thorough understanding and expertise of food waste management policies in India; and

(ii) be a scholar of repute with advanced publications in the field of food waste management and such related fields;

(b) six, who shall be appointed by the central government, out of whom:—

(i) two members shall have prior experience of working closely with food manufacturers and a thorough understanding of their functioning in relation to food waste management;

(ii) two members who shall have prior experience of working closely with supermarkets and a thorough understanding of their functioning in relation to food waste management; and

(iii) two members, who shall have a prior experience of working closely with food redistribution organizations and thorough understanding of their functioning in relation to food waste management.

Terms of
office and
conditions of
service of
Chairperson
and Members.

5. (1) The Chairperson and every member of the Committee shall hold office for a term of two years from the date on which they assume office and shall be eligible for re-appointment:

Provided that the Chairperson or any member shall not be allowed to hold office after two terms.

(2) Notwithstanding anything contained in sub-section 1, the Chairperson or a member may give up their position, by giving in writing to the Central Government, a notice of not less than six months.

(3) The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and other members shall be such as may be prescribed by the Central Government.

CHAPTER III

FUNCTIONS OF THE COMMITTEE FOR FOOD WASTE REDUCTION

6. (1) The Committee for Food Waste Reduction shall publish a "Food Waste Reduction Strategy", within six months of its establishment. Function of the Committee.

(2) The Committee shall, in the Food Waste Reduction Strategy under section 3, after appropriate consultation:—

(a) set a target to halve food wastage in India by 2025;

(b) require supermarkets and food manufacturers to:—

(i) reduce their food waste across their supply chains by thirty per cent by 2025, from a 2016 baseline;

(ii) make proposals for achieving a reduction of food waste by fifty per cent by 2030, from a 2016 baseline; and

(iii) enter into formal agreements with one or more food redistribution organizations within three months for the purpose of donating unsold in-date food to such organizations;

(c) make a list of key indicators by which the objectives under clauses (a) and (b) will be measured; and

(d) include incentive for individuals, public sector bodies and private sector corporations to encourage the observance of food waste reduction.

7. The Committee shall, in discharging their duties under section 6, consult relevant bodies and organizations, including, but not limited to:— Consultation by the Committee.

(a) supermarkets;

(b) food manufacturers;

(c) food redistribution organizations.

8. (1) The Committee shall also conduct periodic inspections, within such times as may be prescribed by the Central Government, of food manufacturers, supermarkets and food redistribution organizations to ensure their compliance with the provisions of this Act. Inspections by the Committee.

(2) If, during the course of the inspection, the Committee finds that the food manufacturer, supermarket or a food redistribution organization has not complied with any of the provisions of this Act, it shall take such action as may be prescribed by the Central Government.

CHAPTER IV

DISCLOSURE OF LEVELS OF FOOD WASTE

9. The supermarkets and food manufacturers shall be required to —

(a) New liver submit a report to the Committee, within such times as prescribed by the Central Government, containing details of the level of food waste across their supply chains and the progress they have made in achieving the targets set under section 6; and

(b) disclose details of their formal agreements with food redistribution organizations in the reports, including, but not limited to:—

(i) the number of food redistribution organizations they have entered into formal agreements with;

Disclosure of
elves of food
waste.

(ii) the amount of food that has been donated to food redistribution organizations;

(iii) the frequency with which the donations are made; and

(iv) the number of people that have benefitted from the aforementioned donations.

(2) The Committee shall submit the reports received under sub-section (1) to the Central Government, who shall cause all such reports to be laid before both House of Parliament.

CHAPTER V

MISCELLANEOUS

Annual
Report.

10. (1) The Central Government shall during every financial year, prepare, in such form and at such time as may be prescribed, an annual report titled "Food Waste Reduction Strategy Report; and the annual report shall be laid before each House of Parliament.

(2) The report shall include, among other things:—

(a) the steps that have been taken by the Committee to achieve the targets set under section 6;

(b) an assessment of whether the Committee shall achieve the targets set under section 6, and, if not, the steps the Central Government has taken, or plans to take, in this regard.

Central
government
to provide
adequate funds
to the
Committee.

11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Committee from time to time, for carrying out the purposes of this Act.

Power to
make Rule.

12. (1) Subject to the other provisions of this Act, the Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to
remove
difficulty.

13. (1) If any difficulty arises in giving effect to the provisions of this act the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Act not in
derogation of
any other law.

14. The provisions of this Act or the rules made there under shall be in addition and not in derogation of any other legislation, rules, order or instructions which provides for reduction of food waste, donation to food redistribution organisations or any act which gives effect to Article 47 of the Constitution of India and all connected matters.

STATEMENT OF OBJECTS AND REASONS

Under article 47 of the Constitution of India, it is the duty of the State to raise the level of nutrition and the standard of living and to improve public health. The article says that the State shall regard the raising of the level of nutrition and the standard of living of its' people and the improvement of public health as among its primary duties.

Despite this provision, it is extremely disturbing to note that India is ranked 103 out of 119 countries in the recently released Global Hunger Index 2018, with hunger levels in the country being characterized as serious. The report further states that at least one in five children in India are wasted, which means they have extremely low weight for their height, reflecting acute under-nutrition. According to the World Economic Forum, India is one of the most undernourished countries in the world, with around one-third of the world's children who are undernourished children live in India. Overall, around 190.7 million people are undernourished in India, which represents 14.5% of the Indian population.

Even after such a dire and serious situation,. the United Nations estimated that nearly 40% of the food produced in India is either wasted or lost. Food wastage is happening at every level, from harvesting to consumption. The aim of this bill is to reduce wastage after food and beverage items have been processed and packaged. By committing the Government to reduce food wastage by 30 per cent by 2025 and enlisting the support of food manufacturers, supermarkets and food redistribution organizations for achieving this objective, it is expected that the levels of malnourishment and food wastage in India will reduce drastically.

Hence, this Bill.

DR. VIKAS MAHATME

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Committee for Food Waste Reduction. Clause 5 provides for composition of the Committee. Clause 6 provides for the payment of salary and allowances to the Chairperson and six other members of the Committee. Clause 8 provides for the Committee to conduct periodic inspections of food manufacturers, supermarkets and food redistribution organizations. Clause 11 provides that the Central Government shall grant Funds to the Committee. The Bill, therefore, if enacted is likely to involve expenditure out of the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees fifty crore would be involved per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Clause 5 empowers the Central Government to make regulations for salary and allowances payable and other terms and conditions of the Chairperson and other members of the Committee. Clause 8 empowers the Central Government to make appropriate penalties to be imposed on food manufacturers, supermarkets or food redistribution organizations. As the rules and regulations will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

XIX

BILL NO. LIV OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
article 85.

2. In article 239AA of the Constitution of India for clause (4), the following shall be substituted, namely:—

"(4) There shall be a Council of Ministers consisting of not more than ten per cent of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor who shall in the exercise of his functions act in accordance with such advice in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that the Lieutenant Governor may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the Lieutenant Governor shall act in accordance with the advice tendered after such reconsideration:

Provided further that the question whether any, and if so what, advice was tendered by Ministers to the Lieutenant Governor shall not be inquired into in any court."

STATEMENT OF OBJECTS AND REASONS

An elected government is the repository of the will of the people. The power to take key administrative decision is important to realise this will. In Delhi, however, administrative powers of the Lieutenant Governor *vis-a-vis* such powers of the elected government, the overall quality of governance and affect the implementation of welfare schemes for the people. Decisions taken by the Lieutenant Governor directly impact the lives of the people of Delhi. Therefore the advice of the elected government is important to ensure accountability to the demands of the people.

Article 239 AA (4) the Constitution provides for a Council of Ministers from the elected government to aid and advice the Lieutenant Governor. However there needs to be a provision for the Lieutenant Governor to act in accordance with such advice. This would be in line with article 74 of the Constitution which provides that the President shall act in accordance with the advice of the council of Ministers in the case of the Union government. Union Territories are administered by the President acting through an administrator, according to article 239 of the constitution. In the case of Delhi, however, the administrator is, as per article 239 AA, referred to as the Lieutenant Governor. Therefore the powers drawn by the Lieutenant Governor *vis-a-vis* administration must be in the line with the powers exercised by the President in the case of the Union Government, as enshrined in the Constitution.

Further, article 74 allows the President to require the Council of Ministers to reconsider its advice. The President would however then have to act upon the advice given by the ministers after the reconsideration. This provision would also be meaningful in the case of Delhi. The Lieutenant Governor would be able to scrutinise the advice of the elected government and would, if the need arises, require reconsideration of the advice provided. Such scrutiny would ensure a mechanism of checks and balances for the elected government.

The above mentioned provisions would, therefore, retain effective checks and balances for the elected government, while being fair to its collective responsibility towards the welfare and aspirations of the people. Accountability can be safeguarded with a more active role for the elected government in the governance of the Union Territory of Delhi.

Hence, this Bill.

TIRUCHI SIVA

XX

BILL NO. XLIV OF 2018

A Bill to provide for regulation of tour operators and travel agents by providing for compulsory registration of these operators and agents by competent authority; and by prescribing requisite norms and infrastructure for various tour and tourist related activities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Tour Operators and Travel Agents (Regulation) Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'appropriate Government' means in the case of a State, the State Government and in all other Cases, the Central Government;

(b) "Competent authority" means any office or Officer notified by the appropriate Government under section 4;

(c) "prescribed" means prescribed by rules made under this Act.

(d) "tour operator or travel agent" means any person including any establishment who undertakes and conducts packaged tours to the various parts of the country and outside or provides transport, passport and visa facilities, reservation of seats for airlines, rail, bus, steamer and ships and consultancy to tourists;

(e) "tourist" means any person who undertakes any journey or visits any place in or out side India and includes a pilgrim.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint, no person or establishment shall work as tour operator or travel agent without prior registration with the competent authority.

Compulsory registration of Tour Operators and Travel Agents.

(2) Any person or establishment found working as tour operator or travel agent without registration shall be guilty of an offence under this Act.

4. (1) The appropriate Government shall, by notification in the Official Gazette, appoint a competent authority for the purposes of registration of tour operator or travel agents within its jurisdiction.

Procedure for registration.

(2) Any person or establishment willing to work as tour operator or travel agent shall apply to the competent Authority for the purpose of registration in such form and manner as may be prescribed.

(3) Any person or establishment working as tour operator or travel agent before the commencement of this Act shall apply for registration to the competent authority within a period of forty-five days from the date of commencement of this Act in such form and manner as may be prescribed.

(4) On receipt of an application for registration as tour operator or travel agent the competent authority shall scrutinize the application and may call for such other information or documents from the applicant as may be prescribed.

(5) The competent authority shall, before registering any tour operator or travel agent, inspect the infrastructure and facilities available with the tour operator or travel agent to have the first hand information and ensure the compliance of the norms and standards fixed by the appropriate Government in this behalf.

(6) The competent authority shall, after being satisfied with the various requirements under this Act, grant a registration certificate to the applicant in such manner and form as may be prescribed which shall be valid for three years.

(7) The competent authority shall renew the registration of any tour operator or travel agent only after re-inspecting the infrastructure facilities with the tour operator or travel agent and on fulfilment of requirements and norms fixed in this behalf by the appropriate Government under this Act.

(8) The competent authority may refuse to register or renew registration of a tour operator or travel agent if he fails to comply with the norms and standards fixed by the appropriate Government in this behalf or the competent authority finds its infrastructure insufficient for the purpose of working as tour operator or travel agent:

Provided that in case of non-registration or non-renewal of registration of a tour operator or travel agent, the competent authority shall record reasons in writing and communicate the same to the applicant.

(9) The competent authority shall take a decision on the application filed under sub-section (2) within a period of thirty days.

(10) The appropriate Government shall, by notification in the Official Gazette, appoint an appellate authority, to provide opportunities to the person aggrieved by the orders of the competent authority.

Appropriate Government to prescribe norms for tour operator and travel agents.

5. (1) The appropriate Government shall,—

(a) fix the maximum fee to be charged by the tour operator and travel agents for various tour related activities;

(b) fix the rate at which vehicles shall be made available to tourists;

(c) prescribe norms and standards for various activities;

(d) lay down norms for minimum infrastructure for starting and running tour operations;

(e) prescribe such other norms as may be necessary for the purpose.

Penalty.

6. Whoever contravenes the provisions of this Act and the rules made thereunder shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to five lakhs rupees.

Offences by company.

7. (1) Where a contravention of any of the provisions of this Act or any rule, direction or order made thereunder has been committed by a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention was committed without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, order, or direction made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation:—For the purpose of this section:—

(i) "company" means any body corporate and includes a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Power to remove difficulties.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding effect of the Act.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save as aforesaid the provisions of the Act shall be in addition to and not derogation of any other law for the time being in force.

Power to make rules.

10. The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

At present, there is no legislation to regulate the tourism industry, particularly the travel agencies operating in various regions of the country. This sector is unorganised and any person can start a travel agency anywhere by setting up a small shop just with a telephone facility. There is no ban on such travel agents and as a result, in some of the cases, anti social or mischievous elements sneak into this business and flourish in the name of providing travel consultancy. There have been cases when the foreign tourists have been cheated and robbed of their valuables by the unscrupulous travel agents. The Association of Domestic Tour Operators has held several meetings with the Ministry to make registration of a travel agency mandatory to curb the untoward incidents and dubious practices indulged in by some travel agents with ulterior motives. It becomes all the more important to check this menace of unregulated travel agencies, by suitable legislative measures.

Hence, this Bill.

AMAR SHANKAR SABLE

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of a normal character.

XXI

BILL NO. LIII OF 2018

A Bill to provide for the constitution of the Central Council of Physiotherapy for the co-ordinated development in the education and practice of physiotherapy with a view to regulating and maintaining standards of such education, maintenance of Register of Physiotherapists and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Physiotherapy Central Council Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for constitution of different Central Councils and for different provisions of this Act.

2.(1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "Central Council" means the Central Council of Physiotherapy, constituted under section 3;

(b) "education" means programmes of education, research or training or such other programmes or areas as the Central Government may, in consultation with the Central Council, by notification, declare in the discipline of physiotherapy;

(c) "Fund" means the Physiotherapy Central Council Fund constituted under section 30;

(d) "institution" means any institution, by whatever name called, established by law for imparting education under this Act;

(e) "member" means a member of the Central Council and includes its Chairperson and the Vice-Chairperson;

(f) "notification" means a notification published in the Official Gazette;

(g) "physiotherapist" means a person whose name has been entered in the register of the Central Council;

(h) "physiotherapy" means therapy through physical agents including heat, cold, light, water, massage, electricity or manual exercise to persons with the aim of preventing or correcting any disability and includes occupational therapy;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "register" means the register maintained under sub-section (1) of section 23;

(k) "regulations" means regulations made under this Act;

(l) "University" means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956 and includes an institution declared to be a deemed University under section 3 of the said Act.

3 of 1956.

(2) Any reference in this act of a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

THE CENTRAL COUNCIL AND ITS COMMITTEES

3.(1) The Central Government shall, by notification, constitute a body to be known as the Central Council of Physiotherapy, for carrying out the purposes of this Act.

Constitution
of Central
Council of
Physiotherapy.

(2) The Central Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall be the said names sue and be sued.

(3) The head office of the Central Council shall be at such place as may be determined, by notification, by the Central Government and the Central Council may, with the previous approval of the Central Government, establish regional offices at other places in India.

(4) The Central Council shall consist of,—

(a) a Chairperson, to be appointed by the Central Government from amongst the members of the Central Council;

(b) a Vice-Chairperson, to be appointed by the Central Government from amongst the members of the Central Council;

(c) one member not below the rank of an Assistant Director General of the Directorate General of Health Services in the Union Ministry of Health and Family Welfare dealing with physiotherapy;

(d) one member of the Ministry of Health and Family Welfare not below the rank of a Deputy Secretary to the Government of India, dealing with physiotherapy;

(e) one member not below the rank of a Deputy Secretary to the Government of India to be appointed by the Central Government to represent the Union Ministry of Finance;

(f) one member not below the rank of a Deputy Secretary to the Government of India to be appointed by the Central Government to represent the Union Ministry of Science and Technology;

(g) one member not below the rank of a Deputy Secretary to the Government of India to be appointed by the Director General, Armed Forces Medical Services to represent the Ministry of Defence;

(h) two members not below the rank of a Deputy Secretary to the Government of India to be appointed by the Central Government to represent,—

(i) the Central Board of Secondary Education; and

(ii) the University Grant Commission;

(i) four members to be appointed by the Central Government from amongst the teachers of the recognized institutions imparting education in physiotherapy;

(j) not less than three members to be appointed by the Central Government by rotation in the alphabetical order to represent the States and one member to represent the Union territories;

Provided that an appointment under this clause shall be made on the recommendation of the Government of the State, or as the case may be, the Union territory concerned; and

(k) four members to be appointed by the Central Government from the organizations representing the interest of physiotherapy.

Term of office
and casual
vacancy.

4. (1) The Chairperson, Vice-Chairperson and other members, of the Central Council shall hold office for a term of five years from the date of their appointments.

(2) A casual vacancy in the Central Council shall be filled by fresh appointment and the person so appointed to fill the vacancy shall hold office only for the remainder of the term of the Chairperson, Vice-Chairperson or any other member in whose place he has been appointed.

(3) The Chairperson, Vice-Chairperson and other member of the Central Council shall be eligible for reappointment.

Cessation of
membership.

5. (1) The Chairperson, Vice-Chairman or any other member appointed by the Central Government under clauses (c) to (i) of sub-section (4) of section 3 shall cease to be a member of the Central Council on his cessation to the service by virtue of which he was appointed as a member of the Central Council.

Resignation by
member.

6. The Chairperson, Vice-Chairperson or any other member appointed by the Central Government under clauses (h) to (k) of sub-section (4) of section 3 may at anytime resign from his membership by writing under his hand addressed to the Central Government:

Provided that a member who has submitted his resignation under this section shall continue to hold office of the Central Council until his resignation has been accepted by the Central Government.

Removal and
vacation of
membership.

7. (1) The Central Council may, without prejudice to the provisions of sub-section (2), by a majority of its total membership and a majority of not less than two-thirds of its members present and voting, at any time recommend removal of a member to the Central Government, if it is satisfied that for any reason the continuance of that member in that Council is not in the public interest or is prejudicial to the interest of Central Council and the decision of the Central Government in this regard shall be final.

(2) The Central Government shall remove the Chairperson, Vice-Chairperson and other members of the Central Council, if he—

- (a) has been convicted for an offence involving moral turpitude; or
- (b) is declared an undischarged insolvent by the competent court; or;
- (c) becomes of unsound mind and is declared so by the competent court; or
- (d) refuses to act or becomes incapable of acting as a member; or
- (e) has absented without intimation for three consecutive meetings of the Central Council; or
- (f) has abused the position of the Chairperson, the Vice-Chairperson or a member, as the case may be, as to render his or her continuance in the office detrimental to the public interest :

Provided that no person shall be removed under clauses (a), (d), (e) and (f) unless he has been given an opportunity of being heard.

8. (1) The Central Council shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, including the quorum at such meetings, as may be determined by regulations:

Meetings of
Central
Council.

Provided that the Central Council shall meet at least once every year.

(2) The Chairperson and in his absence the Vice-Chairperson shall preside at the meetings of the Central Council.

(3) If for any reason the Chairperson and the Vice-Chairperson both are unable to attend any meeting of the Central Council, any other member chosen by the members present at the meeting shall preside over the sittings of that meeting.

(4) All questions which come up before any meeting of the Central Council shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the person presiding shall have and exercise a second or casting vote.

9. No act or proceeding of the Central Council shall be invalidated merely by the reason of—

Vacancy, etc.
not to
invalidate
proceedings of
Central
Council.

- (a) any vacancy in, or any defect in the constitution of said Council; or
- (b) any defect in the appointment of a person acting as a member of said Council; or
- (c) any irregularity in the procedure of that Central Council not affecting the merits of the case.

10. (1) The Central Council may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may require in carrying out any of the provisions of this Act.

Power to
associate
persons with
Central
Council for
particular
purposes.

(2) A person associated with the Central Council under sub-section (1) for any purpose shall have a right to take part in the discussion relevant to that purpose, but shall have no right to vote at a meeting of said Council, and shall that not be a member for any other purpose.

11. (1) The Central Council shall, as soon as may be, constitute from among its members an Executive Committee, Disciplinary Committee, or any other Committee as may be determined by regulations, for such general or specific purposes as it consider necessary, for carrying out its functions under this Act.

Committees
of Central
Council.

(2) The composition, tenure and functions of a Committee be such as may be determined by regulations.

(3) Every Committee constituted under this section shall chose its own Chairperson:

Provided that—

(a) where the Chairperson is a member of such Committee, he shall be the Chairperson of such Committee and in his absence, the Vice-Chairperson, if he is a member of such Committee, shall be its Chairperson; and in the absence of both, any member chosen by the members of that Committee shall be its Chairperson;

(b) where the Chairperson is not a member of such Committee but the Vice-Chairperson is a member, he shall be its Chairperson, and in his absence any member chosen by the members of the Committee shall be its Chairperson.

Functions of
Central
Council.

12. (1) It shall be the duty of the Central Council to take such steps as it may think fit for ensuring coordinated and integrated development of education and practice of Physiotherapy and maintenance of its standards.

(2) In particular and without prejudice to the generality of the foregoing power, the functions of the Central Council shall include—

(a) maintenance of a register of persons qualified to practice in the physiotherapy disciplines;

(b) entry, removal or re-entry of names in the register;

(c) determination of standards of education, training, research, professional conduct or ethics of physiotherapists.

(d) to receive gifts, grants, donations or benefactions from the Central Government or a State Government and to receive bequests, donations and transfer of movable or immovable properties from testators, donors or transferors, as the case may be;

(e) exercise of disciplinary power conferred by this Act; and

(f) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the central Council.

Appointment
of Secretary,
officers and
other
employees of
Central
Council.

13. (1) For the purpose of discharging its functions efficiently under this Act, the Central Council shall, subject to such regulations as may be made in this behalf, appoint a Secretary and such other officers and employees, as it may consider necessary:

Provided that the Secretary of the Central Council shall be appointed by the Central Government on such terms and conditions as that Government may deem fit and the Secretary shall hold office for a period of three years.

(2) The Secretary, officers, or other employees appointed by the Central Council shall be subject to such conditions of services and entitled to such remunerations as may be determined by regulations.

Secretary to
act as Chief
Executive
Officer of
Central
Council.

14. The Secretary appointed under sub-section (1) of section 13 shall be the Chief Executive Officer of the Central Council.

Authentication
of orders and
other
instruments of
Central
Council.

15. All orders and decisions of the Central Council shall be authenticated by the signature of the Chairperson, or any other member authorised by the Council in this behalf, and all other instruments issued by the Central Council shall be authenticated by the signature of the Chief Executive Officer or any other officer of the Central Council authorised by the Central Council in this behalf.

Approval of
Central
Government
for imparting
education.

16. On and from the date specified in the notification, as may be issued by Central Government, no University or institution shall impart education for the purposes of this Act without seeking prior approval of the said Government.

17. (1) The Central Government, after consulting the Central Council, may, by notification, from time to time, declare the education granted by any University or institution to be the recognized qualifications for the purposes of this Act.

Recognition of education.

(2) The University or institution whose education has not been notified by the Central Government under sub-section (1), may apply to the said Government for reviewing its decision:

Provided that the Central Government may reject the application made under sub-section (2) for reasons to be recorded in writing.

(3) The Central Government, after consulting the Central Council, may, by notification relax education for persons who are practising as physiotherapist, on or before the date to be specified under section 16.

18. The Central Government, after consulting the Central Council, may, by notification make a scheme of reciprocity for the purpose of recognition of foreign qualifications in the relevant discipline for the purposes of this Act.

Scheme of reciprocity for recognition of foreign qualifications.

19. The Central Council may, determine by regulations, the minimum standards of education required for granting recognized qualifications by the Universities or institutions.

Minimum standards of education.

20. Any University or institution imparting education shall furnish information to be Central Council regarding course of study, duration of course, scheme of examination and other eligibility conditions as the Central Council may, from time to time require.

Furnishing of information by University or institution to Central Council regarding education.

21. (1) The Central Council may appoint such number of inspectors, as it may be deem fit, to deal with recognition of education in any University or institution.

Appointment of Inspectors.

(2) An inspector may—

(a) inspect any University or institution which imparts the approved education;

(b) attend at any approved examination; and

(c) inspect any University or institution which has applied for the recognition of its course of study or examination under this Act, and attend at any examination of such University or institution.

(3) An inspector while performing his functions under sub-section (2) shall not interfere with the conduct of the examination but he shall report to the Central Council on the adequacy of standards of education including staff, equipment, accommodation, training and other facilities for giving such education or the sufficiency of every examination which he attends and on any of the matters in regard to which the said Council may require him to report.

(4) The Central Council shall forward a copy of every such report to the University or institution, as the case may be, and shall also forward a copy together with any comments thereon which the said University or institution may have made, to the Central Government.

22. Where the Central Council reports to the Central Government that an approved course of study or an approved examination does not continue to be in conformity with the regulations, the Central Government shall give notice to the concerned University or institution of its intention to take into consideration other question of withdrawing of recognition accorded to the course of study or examination, as the case may be, and the said University or institution, as the case may be, shall within three months from the receipt of such notice forward to the Central Government such representation in the matter as it may deem proper.

Withdrawal of recognition.

CHAPTER III

THE REGISTER

Register of
physiotherapist.

23. (1) The Central Council shall maintain a register and enter names in it of physiotherapists, in the manner determined by regulations.

(2) Subject to the other provisions of this Act, any person possessing education as notified by the Central Government under section 17 or section 18, shall be eligible to have his name entered in the register of the Central Council and to obtain certificate of practice from it.

(3) No person shall be entitled to practice under this Act unless his name is entered in the register of Central Council:

Provided that the name of any person possessing the education as notified under section 17 by the Central Government shall be deemed to have been entered in the register from the date of such notification if he has made an application for entering his name in this register within six months from the coming into force of such notification or till his application is disposed of by the Council.

Entry of name
in register.

24. (1) The Central Council may, on receipt of an application made by any person in the manner and on payment of such fee, not exceeding one thousand rupees, as may be determined by regulations, enter his name in the register if the said Council is satisfied that such person possesses the required qualification.

(2) Any person whose name has been entered in the register shall be entitled to be called by physiotherapist.

(3) The Central Council may refuse to enter the name of any person in the register for reasons to be recorded in writing and in the manner determined by regulations.

Professional
conduct and
removal of
names from
register.

25. (1) The Central Council shall determine by regulations the standards of professional conduct and etiquette and a code of ethics for the practitioners under this Act.

(2) The regulations made by the Central Council under sub-section (1) may specify as to which violations thereof shall constitute professional misconduct, and such provisions shall have effect notwithstanding anything contained in any other law for the time being in force.

(3) The Central Council may by order remove the name of a person from the register, maintained under sub-section (1) of section 23, where it is satisfied, after giving that person a reasonable opportunity of being heard, and after such further inquiry, if any, as it may deem fit make,—

(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact;

(ii) that he has been convicted of any offence or has been guilty of misconduct in any professional respect, or has violated the standards of professional conduct and etiquette or the code of ethics determined under sub-section (1) which, in the opinion of the said Council, renders him unfit to be kept in the register.

(4) An order under sub-section (3) may specify that any person whose name is ordered to be removed from the register shall be ineligible for registration under this Act either permanently or for such period, as may be specified.

Procedure in
inquiries
relating to
misconduct.

26. (1) Where on receipt of information by, or on a complaint made to it, the Central Council is *prima facie* of opinion that any physiotherapist has been guilty of any professional or other misconduct, the said Council shall refer the case to the Disciplinary Committee constituted under section 11, and the Disciplinary Committee shall thereupon hold such inquiry and in such manner as may be determined by regulations and shall report the result of its inquiry to the said Council.

(2) If on receipt of such report, the Central Council finds that a physiotherapist is not guilty of any professional or other misconduct, it shall record its finding accordingly and direct that the proceedings shall be filed, or the complaint shall be dismissed, as the case may be.

(3) If on receipt of such report the Central Council finds that a physiotherapist is guilty of any misconduct in any professional respect or has violated the standards of professional conduct and etiquette or the code of ethics prescribed under this Act, it shall proceed against such person in accordance with the provisions of sub-section (3) and (4) of section 25.

Explanation.—For the purposes of this section, "physiotherapist" includes the person who was a physiotherapist on the date of the alleged misconduct, although he has ceased to be so at the time of inquiry.

(4) For the purposes of any inquiry under this section, the Central Council and its Disciplinary Committee shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) the discovery and production of any document; and
- (c) receiving evidence on affidavits.

27. The Central Council may re-enter the name of a person whose name has not been removed permanently from the register under sub-section (4) of section 25, by an order, in such manner and on payment of such fee, not exceeding one thousand rupees, and after satisfying such conditions and requirements as may be determined by regulations.

Re-entry in register.

28. (1) Where a Central Council under this Act, has,—

- (a) refused to enter the name of any person in the register; or
- (b) ordered to remove the name of any person from the register, such person may appeal to the Central Government within thirty days from the date of receipt of the order of the said Council by him in such manner as may be prescribed:

Appeal against order made by Central Council.

Provided that the Central Government may entertain such appeal after the expiry of said period of thirty days if it is satisfied that for sufficient reasons such person could not file the appeal.

(2) The Central Government shall dispose of the appeal preferred under sub-section (1) according to procedure as may be prescribed.

(3) The decision of the Central Government under sub-section (2) shall be final.

CHAPTER IV

FINANCE ACCOUNTS AND AUDIT

29. The Central Government may, after due appropriation made by the Parliament by law in this behalf, grant to Central Council in each financial year such sums as may be considered necessary for the performance of functions of the Central Council.

Grants by Central Government.

30. (1) The Central Council shall by notification in the Official Gazette constitute a Fund to be known as the Physiotherapy Central Council Fund to which shall be credited, all sums which may, from time to time, be granted to it by the Central Government and all the receipts from any other authority or person and all payments by the Central Council shall be made therefrom.

Fund of Central Council.

(2) All money belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Central Council.

(3) The Central Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Central Council.

Budget.

31. The Central Council shall prepare, in such form and at such time each year as may be prescribed a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forward to the Central Government.

Annual Report.

32. The Central Council shall prepare once every years, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

Accounts and audit.

33. (1) The Central Council shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

(2) The Central Council shall, as soon as may be, after closing its annual accounts prepare a statement of accounts in such form, and forward the same to the Comptroller and Auditor-General of India by such date, as the Central Government may, in consultation with the Comptroller and Auditor-General, determine.

(3) The accounts of the Central Council shall be audited by the Comptroller and Auditor-General of India at such times and in such manner as he thinks fit.

(4) The accounts of the Central Council as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER V

MISCELLANEOUS

Prohibition in employment as physiotherapist by clinical establishment.

34. No clinical establishment, such as hospital, nursing home and other institutions of healthcare, shall appoint any person as physiotherapist unless his name has been entered in the register of the Central Council.

Penalty for violation of provisions of this Act.

35. Any person who acts in contravention of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one lakh rupees, or with both.

Penalty for practicing as professional by non-professional.

36. Any person whose name has not been entered or whose name is not deemed to have been entered in the registe of the Central Council under this Act and is practicing as physiotherapist, shall be punishable with imprisonment for a term which may extend upto six months, or with fine which may extend upto twenty thousand rupees, or with both.

Punishment for dishonest use of certificates, etc.

37. Any person—

(i) who dishonestly makes use of his entry in the register under the provisons of this Act; or

(ii) who dishonestly attempts to practice under provisions of this Act by making or producing or causing to be made or produced any false or fraudulent declaration or representation whether in writing or otherwise; or

(iii) who wilfully makes false representation in any matter relating to the register under the provisions of this Act; or

(iv) whose name has been removed from the register wilfully practices as a physiotherapist,

shall be punishable with simple imprisonment which may extend to two years, or with fine which may extend to ten thousand rupees, or both; and for any subsequent offence, with imprisonment which may extend to three years, or with fine which may extend to twenty thousand rupees, or with both.

38. No court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from the Central Government or the Central Council. Cognizance of offences.

39. (1) The Central Government may, from time to time, issue such directions to the Central Council as in the opinion of said Government are conducive for the fulfillment of the objects of this Act and in the discharge of its functions, that Central Council shall be bound to carry out any such directions. Directions by the Central Government.

(2) The directions issued under sub-section (1) may include directions to the Central Council to make any regulations or to amend or revoke any regulations already made.

(3) If, in the opinion of the Central Government, the Central Council has persistently committed default in giving effect to the directions issued under this section, the Central Government may after giving an opportunity to the Central Council to state its case, by order, dissolve the Central Council whereafter a new Central Council shall be constituted in accordance with the provisions of this Act with effect from such date as may be notified by the Central Government.

(4) Where the Central Government passes an order under sub-section (3) dissolving the Central Council, it may, pending the constitution of a new Central Council in accordance with the provisions of this Act, authorize any person or body of persons to take over the management of the affairs of the said Council and to exercise such functions as may be specified in this behalf by the Central Government.

40. No suit, prosecution or other legal proceeding shall lie against the Central Government, Central Council, or the Chairperson, Vice-Chairperson, members, Secretary or any officer or other employees of the Central Council in respect of anything which is in good faith done or intended to be done in pursuance of this Act. Protection of action taken in good faith.

41. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of filing an appeal under sub-section (1) of section 28;
- (b) the procedure to dispose of appeal under sub-section (2) of section 28;
- (c) the form and the time for preparation of budget of the Central Council under section 31;
- (d) the form and the time for preparation of annual report of the Central Council under section 32;
- (e) the form and the manner of maintenance of books of account under section 33; and
- (f) any other matter which is required to be or may be prescribed.

42. (1) The Central Council may, with the previous approval of the Central Government, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act. Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the time, place, procedure and quorum of the meeting of the Central Council under sub-section (1) of section 8;

(b) the manner and purpose for associating persons with the Central Council under sub-section (1) of section 10;

(c) the composition, tenure and function of committees under section 11;

(d) the appointment, conditions of service and remuneration of the Secretary, officer and other employees under section 13;

(e) the minimum standards of education required for granting recognized qualifications under section 19;

(f) the maintenance of register under sub-section (1) of section 23;

(g) the manner and payment for fee for entry of name in the register under sub-section (1) of section 24;

(h) the manner for refusing to enter the name in the register under sub-section (3) of section 24;

(i) the standards of professional conduct and etiquette and code of ethics under sub-section (1) of section 25;

(j) the manner to hold inquiry by the Disciplinary Committee under sub-section (1) of section 26; and

(k) the manner, payment of fee, conditions and requirement of re-entry of the name in the register under section 27.

Rules and regulations to be laid before Parliament.

43. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, be for each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation, shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties.

44. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make provisions not inconsistent with the provisions of this Act, as may appear it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

With the advancement of medical science and development of new diagnostic and therapeutic techniques, there has been a quantum jump in the demand for physiotherapists. This has resulted in the establishment of a large number of institutions and centres for the training of these professionals, which are run without any supervision and control as to the quality and standard of education.

Maintenance of proper standards in the training and education of physiotherapist professions is considered essential as these personnel play an inevitable role in healthcare delivery. With a view to regulating these professions, it is considered necessary to set up in the field of a Central Council on the lines already existing dentistry, medicine pharmacy, nursing, etc. To begin with, it is proposed to set up separate Central Council for Physiotherapists. This Council will be responsible, *inter alia*, for maintenance of uniform standards of education in the physiotherapy disciplines and registration of qualified personnel for practicing the profession.

The Bill seeks to achieve the above objects.

AMAR SHANKAR SABLE

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for establishment of the Central Council of Physiotherapy.

Clause 13 provides for appointment of Secretary, Officers and other employees of the Central Council.

Clause 21 provides for appointment of Inspectors for the Central Council.

Clause 29 provides for grant of fund to the Central Council.

Clause 30 provides for establishment of Fund of the Central Council.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of about rupees one crore and ninety lakhs will be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees one hundred crore is also likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Council to make regulations to provide for the time, place, procedure and quorum for the meeting of the Central Council.

Clause 10 empowers the Central Council to make regulations to provide for the manner and the purposes for associating persons with itself whose assistance or advice it may require.

Clause 11 empowers Central Council to make regulations to provide for the constitution of Committees. It empowers each Central Council to provide for the composition, tenure and functions of each such Committee.

Clause 13 empowers the Central Council to make regulations to provide for the appointment of a Secretary, officers and other employees and to determine the conditions of service and entitlement to remuneration of the Secretary, officer and other employees.

Clause 19 empowers the Central Council to determine by regulations the minimum standards of education required for granting recognized qualifications by the Universities or Institutions.

Clause 23 empowers the Central Council to make regulations to provide for the manner of maintaining and entering the names in the Register of Central Council.

Clause 24 empowers the Central Council to make regulations to provide for the manner of, and the fee for, making application for entering the name in the register. Sub-clause (3) thereof also empowers the Central Council to determine the manner of refusing to enter the name in the Register.

Clause 25 empowers the Central Council to determine by regulations the standards of professional conduct and etiquette and the code of ethics for the practitioners.

Clause 26 empower the Central Council to determine by regulations the manner of holding inquiry by the Disciplinary Committee.

Clause 27 empowers the Central Council to make regulation to provide for the manner of the fee for, and the conditions and requirement for re-entering the name in the Central Register.

Clause 28 empowers the Central Government to make rules to provide for the manner of filing appeal from the order of the Central Council relating to refusal to enter the name in, or removal of the name from, the register. It also empowers the Central Government to provide for the procedure for disposal of such appeal.

Clause 31 empowers the Central Government to make rules to provide for the form and the time for preparation of the Annual Budget of each Central Council.

Clause 32 empowers the Central Government to make rules to provide for the form and the time for preparation of annual report of each Central Council.

Clause 33 empowers the Central Government to make rules to provide for the form and the manner of maintenance of books of accounts of the Central Council.

As the matters for which the rules and regulations may be made pertain to matters of procedure or detail only, the delegation of legislative power is, therefore, of normal character.

XXII

BILL NO. LVI OF 2018

A Bill to provide for measures to ensure national security while promoting foreign investment, to reform the process of examination of such investment, vis-a-vis their effect, if any, on national security and to establish a Committee on Foreign Investment to effectively guard against the risk to national security posed by certain types of foreign investment in financial services, critical infrastructure and technology sector, and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Foreign Investment in Financial Services, Critical Infrastructure and Technology Affecting National Security (Regulation) Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Short title
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'access' means the ability and opportunity to obtain information, subject to regulations prescribed by the Committee under section 9;

(b) 'Committee' and 'Chairperson' means the Committee on Foreign Investment and the Chairperson thereof, respectively;

(c) 'control' includes the power to determine, direct, or decide important matters including but not limited to the sale, lease, pledge or other transfer of the company's assets; the dissolution of the company; the closing or relocating of research and development facilities; board decisions; capital allocation or budget plans affecting an entity, and its right to information in relation to an entity subject to regulations prescribed by the Committee under section 9;

(d) 'country of special concern' includes a country that poses a significant threat to the national security of India;

(e) 'covered transaction' includes any of the following form of transaction or investment including any merger, acquisition, investment or takeover either proposed or pending after the coming into operation of this Act, by or with any foreign person,—

(i) resulting in increase in foreign holding of an Indian business engaged in financial services, critical infrastructure and technology sector by five percent or more, in such Indian business that already has at least fifteen percent combined foreign ownership;

(ii) entering into business in financial services, critical infrastructure and technology sector by an existing Indian Business that has foreign ownership of at least fifteen percent;

(iii) investing (other than passive investment) in any Indian critical technology company or Indian critical infrastructure company subject to regulation prescribed by the Committee under section 9;

(iv) resulting in change in the rights that a foreign person has with respect to an Indian business in which the foreign person has an investment, if that change may result in foreign control of Indian business; or

(v) leading to any transaction, transfer, agreement, or arrangement, the structure of which is designed or intended to evade or circumvent the application of this Act, subject to regulations prescribed by the Committee under section 9 or which impairs the national security.

(f) 'critical infrastructure' means, systems and assets, whether physical or virtual, as may be prescribed, the incapacity or destruction of which may have a debilitating impact on national security;

(g) 'critical infrastructure company' means an Indian business that owns, operates, or primarily provides services to, an entity or entities that operate within a critical infrastructure sector or subsector, as defined by regulations prescribed by the Committee under section 9;

(h) 'critical technology company' means an Indian business that produces, trades in, designs, tests, manufactures, services, or develops one or more critical technologies, or a subset of such technologies, as defined by regulations prescribed by the Committee under section 9;

(i) 'critical materials' means physical materials essential to national security, subject to regulations prescribed by the Committee under section 9;

(j) 'financial services' means and includes services supplied by companies that are in the business of lending, payments, wallets, wealth management, asset

management, peer-to-peer lending, peer-to-peer payments, foreign exchange, money transfer, financial service platforms such as aggregators and comparison platforms, and any other area related to financial transactions as may be prescribed;

(k) 'foreign Government-controlled transaction' includes any covered transaction that could result in the control of any person engaged in Indian financial or critical infrastructure or technological services by a foreign Government or an entity controlled by or acting on behalf of a foreign Government; foreign State-owned enterprises, and also foreign Government influenced transactions including but not restricted to such foreign companies that have Government official(s) on their board, or where Government officials of a foreign country are able to exert influence on business decisions or a transaction when the entity investing is under a legal obligation of a foreign Government or foreign authority to disclose the critical technology or critical infrastructure or any other fact thereof which is likely to impair the national security;

(l) 'fund' means the Committee on Foreign Investment in India Fund established under section 15;

(m) 'foreign person' means a person who is not a resident in India and includes any entity or a person which or who is in any manner associated with a firm, company, partnership, limited liability partnership or any other entity in any form not registered in India and is under the control of a foreign Government or a foreign authority;

(n) 'Indian business' means any entity or a person engaged in financial services in critical infrastructure or technology sector in India;

(o) 'intellectual property' has the meaning given to that term in regulations as may be prescribed by the Committee under section 9;

(p) 'investment' means investments through the ownership of a majority or minority of the total outstanding voting securities, proxy voting or contractual arrangements or the acquisition of equity interest, including contingent equity interest, or grant of form in whatever form as further defined in regulations prescribed by the Committee under section 9;

(q) 'lead agency' means an agency, or agencies, designated as the lead agency or agencies pursuant to sub-section(4) of section 3 for compliance with the provisions of this Act;

(r) 'national security' shall be construed so as to include those issue relating to Indian national security, including its application to financial services and critical infrastructure and technology sector in India;

(s) 'non public technical information' means any information (either by itself or in conjunction with other information) to which a foreign person may have access without which critical technologies cannot be designed, developed, tested, produced, or manufactured; and in a quantity sufficient to permit the design, development, testing, production, or manufacturing of such technologies;

(t) 'passive investment' means an investment by a foreign person in an Indian business,—

(i) that is not described in clause (e) of section 2;

(ii) that does not afford the foreign person—

(a) access to any non-public technical information in the possession of Indian business;

(b) access to any non-technical information in the possession of Indian business that is not available to all investors;

(c) membership or observer rights on the board of directors or equivalent governing body of Indian business or the right to nominate an individual to such a position; or

(d) any involvement, other than through voting of shares, in substantive decision making pertaining to any matter involving Indian business;

(e) any involvement, other than through non-voting shares, in substantive decision making pertaining to any matter involving Indian business;

(iii) under which the foreign person and Indian business to not have a parallel strategic partnership or other material financial relationship, as described in regulations prescribed by the Committee under section 9; and

(iv) that meets such other criteria as the Committee may prescribe by regulation under section 9.

CHAPTER II

COMMITTEE ON FOREIGN INVESTMENT

Constitution
of Committee
on Foreign
Investment,

3. (1) The Central Government shall by notification in the Official Gazette, constitute a Committee on Foreign Investment to operate as a national agency of the Government of India, with the objective to effectively guard against the risk to the national security posed by certain types of foreign investment in financial services and technology sector, and for other purposes assigned to it under this Act.

(2) The Committee shall consist of the following namely:—

(i) Secretary, Department of Economic Affairs, Ministry of Finance;

(ii) Secretary Department of Industrial Policy and Promotion, Ministry of Commerce and Industry;

(iii) Secretary, Ministry of Home Affairs;

(iv) Secretary, Department of Commerce, Ministry of Commerce and Industry;

(v) Secretary, Ministry of Defence;

(vi) Secretary (Economic Relations), Ministry of External Affairs;

(vii) Secretary, Ministry of Overseas Indian Affairs;

(viii) Secretary, Department of Revenue, Ministry of Finance;

(ix) Secretary, Ministry of Micro, Small and Medium Enterprises.

(3) The Secretary of the Department of Economic Affairs, Ministry of Finance shall serve as the Chairperson of the Committee.

(4) The Committee may constitute a lead agency or lead agencies for the exercise of any power or discharge of any function which the Committee may by resolution delegate to them or for inquiring into, reporting or advising upon any matter which the Committee may refer to them.

(a) Provided that the lead agency constituted under this section shall be presided by the Chairperson of the Committee only; and

(b) The lead agency shall consist of members of the Committee only and may, with the sanction of the Committee co-opt not more than two persons who are not members of the Committee, but who in the opinion of the Committee possesses special qualifications for serving on such Committee.

Powers and
functions of the
Committee.

4. (1) The Committee, acting through the Chairperson, may suspend a proposed or pending covered transaction that appears to it to pose a risk to the national security of the

country, for such time as the covered transaction is under review or investigation under section 5 or section 6 respectively;

(2) The Committee or a lead agency may, on behalf of the Committee, negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction in order to mitigate any threat to the national security likely to arise as a result of the covered transaction.

(3) If a party to a covered transaction has voluntarily chosen to abandon the transaction, the Committee or lead agency, as the case may be, may negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction for purposes of effectuating such abandonment and mitigating any risk to the national security likely to arise as a result of the covered transaction.

(4) The Committee or lead agency, as the case may be, may negotiate, enter into or impose, and enforce any agreement or condition with any party to a completed covered transaction in order to mitigate any interim risk that may arise as a result of the covered transaction until such time that the Committee has completed action pursuant to section 5 or section 6 as the case may be;

(5) the Chairperson and the head of the lead agency shall periodically review the appropriateness of an agreement or condition imposed under sub-sections (2), (3) or (4) and shall terminate, phase out, or otherwise amend the agreement or condition if a threat no longer requires mitigation through the agreement or condition.

(6) No agreement shall be entered into or any condition imposed under sub-sections (2), (3) or (4) with respect to a covered transaction unless the Committee determines that the agreement or condition resolves the national security concerns posed by the transaction, taking into consideration whether the agreement or condition is reasonably calculated to —

(i) be effective;

(ii) allow for the terms of the agreement or condition in an appropriately verifiable way; and

(iii) enable effective monitoring of compliance with and enforcement of the terms of the agreement or condition.

(7) No agreement shall be entered into or any condition imposed under sub-sections (2), (3) or (4) unless the Committee has conducted a risk-based analysis of the threat to national security of the covered transaction after taking into consideration the factors specified in section 12.

(8) Any member of the Committee who concludes that a covered transaction poses an unresolved national security concern shall recommend to the Committee that the Committee suspend the transaction under sub-section (1), or negotiate enter into or impose, or enforce any agreement or condition under sub-sections (2), (3) or (4) with respect to the transaction and in making that recommendation, the member shall propose or contribute to the risk-based analysis required by sub-section (7) of this sub-section.

(9) If Committee fails to reach consensus with respect to recommendation under sub-section (8) regarding a covered transaction, the members of the Committee who support an alternative recommendation shall produce —

(i) a written statement justifying the alternative recommendation; and

(ii) as appropriate, a risk-based analysis that supports the alternative recommendation.

(10) If any written notice of a covered transaction that was submitted to the Committee under this Act is withdrawn before the completion of any review or investigation by the Committee under section 5 or section 6 respectively, the Committee shall establish, as deemed appropriate —

(a) interim protections to address specific concerns with such transaction that have been raised in connection with any such review or investigation pending any resubmission of any written notice under this Act with respect to such transaction and further action by the Chairman under this section;

(b) specific time frames for resubmitting any such written notice; and

(c) a process for tracking any action that may be taken by any party to the transaction, in connection with the transaction, before the notice referred to in clause (b) is resubmitted.

(11) The lead agency shall negotiate, modify, monitor, and enforce, on behalf of the Committee, any agreement entered into or condition imposed under sub-section (2) with respect to a covered transaction, based on the expertise and knowledge of the issues related to such transaction:

Provided that the lead agency may for the purposes of sub-section (ii) obtain assistance of other departments or agencies:

Provided further that the lead agency shall provide periodic reports to the Committee on any material modification to any such agreement or condition imposed with respect to the transaction.

(12) In the case of a covered transaction with respect to which an agreement is entered into under sub-sections (2), (3) or (4) the Committee or lead agency, as the case may be, shall formulate, adhere to, and keep updated a plan for monitoring compliance with the agreement.

(13) Each plan required under sub-section (12) with respect to an agreement entered into under sub-sections (2), (3) or (4) shall indicate—

(i) the member of the Committee who shall have primary responsibility for monitoring compliance with the agreement;

(ii) the manner in which the compliance with the agreement shall be monitored;

(iii) the frequency of conducting compliance reviews;

(iv) whether an independent entity shall be utilized under sub-section (15) to conduct compliance reviews; and

(v) the proposed action if the parties fail to co-operate regarding monitoring compliance with the agreement.

(14) If, at any time after a mitigation agreement or condition is entered into or imposed under sub-sections (2), (3) or (4) the Committee or lead agency, as the case may be, determines that a party or parties to the agreement or condition are not in compliance with the terms of the agreement or condition, the Committee or lead agency may—

(a) negotiate a plan of action for the party or parties to remediate the lack of compliance, with failure, to abide by the plan or otherwise remediate the lack of compliance serving as the basis for the Committee to find a material breach of the agreement or condition; or

(b) require that the party or parties submit a written notice under sub-section (1) of section 5 or a declaration under sub-section (4) of section 5 with respect to a covered transaction initiated after the date of the determination of non-compliance but not later than five years after the date of such determination, to the Committee to initiate a review of the transaction under section 5; or

(c) seek injunctive relief.

(15) If the parties to an agreement under sub-sections (2), (3) or (4) enter into a contract with an independent entity from outside the Indian Government for the purpose of monitoring compliance with the agreement, the Committee shall take such action as is necessary

to prevent a conflict of interest from arising by ensuring that the independent entity owes no fiduciary duty to the parties.

(16) Any agreement or condition entered into or imposed under sub-sections (2), (3) or (4) shall be considered binding on all successors and assignees unless and until the agreement or condition terminates on its own terms or is otherwise terminated by the Committee in its sole discretion.

(17) Subject to the other provisions of this section, the Committee shall develop and agree upon methods for evaluating compliance with any agreement entered into or condition imposed with respect to a covered transaction that may allow the Committee to adequately ensure compliance without unnecessarily diverting the resources of the Committee from assessing any new covered transaction for which a written notice under sub-section (1) of section 5 or declaration under sub-section (4) of section 5 has been filed, and if necessary, reaching a mitigation agreement with or imposing a condition under sub-section (2), (3) or (4) on a party to such covered transaction or any covered transaction for which a review has been reopened for any reason.

CHAPTER III

REVIEW AND INVESTIGATION OF COVERED TRANSACTIONS

5. (1) (a) The party or parties to any covered transaction shall initiate a review of the transaction by submitting draft or a formal written notice of the transaction to the Chairperson of the Committee. Review of covered transactions.

(b) Subject to clause (d), the Committee shall provide comments on a draft or formal written notice or accept a formal written notice submitted under clause (a) with respect to a covered transaction not later than the date that is ten business days after the date of submission of the draft or formal written notice.

(c) If the Committee determines that a draft or formal written notice described under clause (a) of this sub-section is not complete, the Committee shall notify the party or parties to the transaction in writing that the notice is not complete and shall provide an explanation of all material respects in which the notice is incomplete.

(d) No covered transaction for which a notice was submitted under clause (a) may be withdrawn from review, unless a written request for such withdrawal is submitted to the Committee by any party to the transaction and approved by the Committee.

(e) A request for withdrawal under clause (d) shall not be construed to preclude any party to the covered transaction from continuing informal discussions with the Committee or any member thereof regarding possible resubmission for review pursuant to this sub-section.

(f) A written notice submitted under clause (a) by a party shall include a copy of any partnership agreements, integration agreements, or other agreements relating to the transaction, including any such agreements relating to the transfer of intellectual property, as may be specified in regulations prescribed by the Committee under section 9.

(2) Upon receiving written notice of any covered transaction, or pursuant to a unilateral review initiated with respect to any covered transaction, the Chairperson, acting through the Committee:

(a) shall review the covered transaction to determine the effects of the transaction on the national security in such manner as may be prescribed; and

(b) shall consider the factors specified in section 12 for such purpose, as appropriate.

(3) If the Committee has any information or reason to believe that the covered transaction may be a national security risk the Committee shall within thirty days of the review, conduct an investigation of the transaction under section 6.

(4) (a) A party to any covered transaction shall submit, not later than forty five days of its completion, to the Committee, a declaration with basic information regarding the transaction instead of a written notice under sub-section (1), if the covered transaction;

(i) involves the acquisition of a total voting interest of the foreign person, which would directly or indirectly result in holding at least fifteen percent in the Indian business post the acquisition, or any such subsequent direct or indirect investment of at least five percent by the same foreign person or any other foreign person, in an Indian business by, that has existing foreign ownership of at least fifteen percent; and

(ii) involves a foreign person in which a foreign government owns, directly or indirectly, foreign stated-owned enterprises holds at least five percent of voting or passive interest.

(b) The Committee shall require the submission of a declaration specified in clause (a) with respect to any covered transaction identified under regulations prescribed by the Committee under section 9 for purposes for this sub-section, at the discretion of the Committee and based on appropriate factors, such as—

(i) the technology, industry, economic sector, or economic subsector in which Indian business that is a party to the transaction trades or of which it is a part;

(ii) the difficulty of remedying the harm to the national security that may result from completion of the transaction; and

(iii) the difficulty of obtaining information on the type of covered transaction through other means.

(5) Any review under this section shall be completed before the end of thirty days period beginning on the date of the acceptance of written notice under sub-section (1) by the Chairperson, or beginning on the date of the initiation of the unilateral review in accordance with sub-section(4), as applicable and if the parties to the covered transaction are not able to satisfy the Committee that such a transaction does not pose a threat to the national security of India, the Committee shall initiate an investigation into such a transaction as per the provisions of section 6.

Provided that the authority of the Committee to initiate a review under sub-section (4) may not be delegated to any person, other than the Deputy Secretary or an appropriate Under Secretary of the department or agency represented on the Committee.

(6) The Committee shall establish a mechanism to identify covered transactions for which—

(a) a notice under sub-section (1) or a declaration under sub-section (4) is not submitted to the Committee; and

(b) information is reasonably available.

Investigation
of covered
transactions.

6. (1) The Committee shall immediately conduct an investigation of the effects of a covered transaction on the national security after considering the factors specified in section 12, and shall take all necessary action in connection with the transaction to protect the national security.

(2) Sub-section (1) shall apply in each case in which—

(a) a review of covered transaction under section 5 results in a determination that—

(i) the transaction threatens to impair the national security and that threat has not been mitigated during or prior to the review of a covered transaction under section 5; or

(ii) the transaction is a foreign Government-controlled transaction; or

(iii) the transaction may result in control of any critical infrastructure of or within India by or on behalf of any foreign person, if the Committee determines that the transaction could impair national security, and that such impairment to national security of India has not been mitigated by assurances provided or renewed with the approval of the Committee, as described in sub-clause (i), during the review period under section 5; or

(iv) parties of the covered transaction fail to satisfy the Committee within thirty days of the review.

(b) the lead agency recommends, and the Committee concurs, that an investigation be undertaken.

(3) Any investigation under sub-section (1) shall be completed before the end of the forty five day period beginning on the date on which the investigation commenced; and

(i) if on such completion the Committee concludes that concerned covered transaction poses a threat to the national security of India, it shall take appropriate measures as per section 13; or

(ii) in case the investigation is not completed in forty five days, the transaction shall be rejected and the parties shall be debarred from re-applying for the transaction.

Exceptions.—

(a) *Notwithstanding anything contained in clause (a) of sub-section (2), an investigation of a foreign Government-controlled transaction described in sub clause (ii) of clause (a) of sub-section (2) or a transaction involving critical infrastructure described in sub clause (iii) of clause (a) of sub-section (2) shall not be required, if the Committee determines, on the basis of the review of the transaction under section 5, that the transaction will not impair the national security of India.*

(b) *The authority of the Committee referred to in clause (a) above shall not be delegated to any person.*

7. (1) The Committee shall, upon completion of a review under section 5 or completion of an investigation under section 6 as the case may be, cause to forward to the Central Government a report duly signed by the Chairperson with a declaration, that in the determination of the Committee, there are no unresolved risks to the national security of India which concern with the transaction that is the subject of the report.

Maintenance of records of review and investigation of covered transactions.

(2) Each certified report required under sub-section (1) shall include—

(a) a description of the actions taken by the Committee with respect to the transaction; and

(b) identification of the determinative factors considered under section 12.

8. (1) No provision of this Act shall be construed as prohibiting any party to a covered transaction from submitting additional information concerning the transaction, including any proposed restructuring of the transaction or any modifications to any agreements in connection with the transaction under section 4 while any review or investigation of the transaction is ongoing.

Submission of additional information to the Committee.

(2) the lead agency shall upon request from any member of the Committee, promptly provide briefings on a covered transaction for which all action has concluded under section 6 or in compliance with a mitigation agreement or condition imposed with respect to such transaction, on a classified basis, if deemed necessary by the sensitivity of the information:

Provided that the disclosure of information under this section shall be consistent with the regulations as may be prescribed under Section 9 and the members of the Committee shall be subject to the same limitations on disclosure of information as may be prescribed under Section 9:

Provided further that the proprietary information associated with a particular party to a covered transaction shall be furnished to the members of the Committee only when the Committee provides assurance of confidentiality, unless such party otherwise consents in writing to such disclosure.

Regulations.

9. (1) The Committee shall have the power to prescribe regulations for the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) specify the voting rights, profit or equity share or such other characteristics that shall amount to control by a foreign person,

(b) define the covered transactions by reference to the technology, sector, subsector, transaction type, or other characteristics of such transactions,

(c) Standard procedures for—

(i) submitting any notice of a covered transaction to the Committee;

(ii) submitting a request to withdraw a covered transaction from review;

(iii) resubmitting a notice of a covered transaction that was previously withdrawn from review; and

(iv) providing notice of the results of a review or investigation to the parties to the covered transaction, upon completion of all action under this Act,

(d) imposition of civil penalties for any violation of this Act,

(e) minimizing paperwork burdens,

(f) coordinating reporting requirements under this Act, with reporting requirements under any other provision of the laws in force in India.

Analysis of covered transactions by the Committee.

10. (1) Except as provided in this section the Committee shall expeditiously carry out a thorough analysis, in such manner as may be prescribed by regulations, of any threat to the national security posed by any covered transaction, which shall include the identification of any recognized gaps in the collection of intelligence relevant to the analysis:

Provided that the Committee shall seek and incorporate into the analysis required by sub-section (1), the views of all affected agencies with respect to the transaction.

(2) The lead agency may provided the Committee with basic information regarding any threat to the national security of India posed by a covered transaction.

(3) The Chairman shall ensure that the lead agency remains engaged in the collection, analysis and dissemination to the Committee of any additional relevant information that may become available during the course of the investigation under section 6 with respect to a transaction.

(4) The Committee shall ensure that its processes under this section preserve the ability of the Committee to conduct analysis under sub-section (1) that is independent, objective, and consistent with all applicable directives, policies, and analytic tradecraft standards of the intelligence community.

11. (1) Subject to sub-section (3), the Chairperson shall, with respect to a covered transaction that threatens to impair the national security take such action for such time as the Chairperson considers appropriate to suspend or prohibit the transaction or to require divestment.

Suspension of covered transactions.

(2) The Chairperson shall announce the decision on whether or not to take action pursuant to sub-section (1) with respect to a covered transaction not later than fifteen days after—

(a) the date on which the investigation of the transaction under section 6 is completed; or

(b) the date on which the Committee otherwise refers the transaction to the Chairperson under section 4,

Whichever is earlier.

(3) The Chairperson shall exercise the authority conferred by sub-section (1), if the—

(a) entity fails to provide credible evidence within seven days from the date that the Committee refers the transaction to the Chairperson, proving that the foreign interest does not impair the national security; and

(b) entity fails to prove that the transaction does not fall in determinative factors as under section 12.

12. For purposes of this Act, the Committee or the Chairperson as the case may be, with reference to an Indian business or Indian critical technology company or Indian critical infrastructure company, taking into account the requirements of maintaining the national security, or risks of spreading terrorism or risk of interference in Government's ability to monitor terror threats due to influence of foreign person, shall consider—

Factors for consideration of the Committee.

(a) that there is a minimum local ownership of at least twenty six per cent and not more than seventy four per cent foreign ownership wherein no single foreign investor controls more than ten per cent of such entity subject to such other regulations made by the Committee under section 9;

(b) the potential national security-related effects of the cumulative market share of any one type of infrastructure, energy asset, critical material, or critical technology by foreign persons;

(c) whether any foreign person that would acquire an interest in an Indian business or its assets as a result of the covered transaction has a history of—

(i) complying with Indian laws and regulations, including laws and regulations pertaining to exports, the protection of intellectual property, and immigration; and

(ii) adhering to contracts or other agreements with entities of Indian Government;

(d) the extent to which the covered transaction is likely to expose, either directly or indirectly, personally identifiable information, genetic information, or other sensitive data of Indian citizens to access by a foreign Government or foreign person that may exploit that information in a manner that threatens national security;

(e) whether the covered transaction is likely to have the effect of creating any new cyber security vulnerabilities in India or exacerbating existing cyber security vulnerabilities;

(f) whether the covered transaction is likely to result in a foreign Government gaining a significant new capability to engage in malicious activities against India, including such activities designed to affect the outcome of any elections in India;

(g) whether the covered transaction involves a country of special concern that has a demonstrated or declared strategic goal of acquiring a type of critical technology that an Indian business that is a party to the transaction possesses;

(h) whether the covered transaction is likely to facilitate criminal or fraudulent activity affecting the national security of India by taking control over the financial services or technical sector of India;

(i) whether the covered transaction is likely to expose any information regarding sensitive national security matters or sensitive procedures or operations of any law enforcement agency with national security responsibilities to a foreign person not authorized to receive that information; and

(j) such other factors as the Committee may determine to be appropriate, generally or in connection with a specific review or investigation.

Notice of
results to
parties.

13. The Committee shall notify the parties to a covered transaction of the results of a review or investigation under this Act, immediately upon completion of all action under this Act.

Annual report.

14. (1) The Committee shall transmit a report to the Chairperson before July 31 of each year on all of the reviews and investigations of covered transactions completed under sections 5 and 6 during the twelve months period covered by the report.

(2) The annual report under sub-section (1) shall contain the following information, with respect to each covered transaction, for the reporting period:—

(a) a list of all notices filed and all reviews or investigations of covered transactions completed during the period, with—

(i) a description of the outcome of each review or investigation, including whether an agreement was entered into or condition was imposed under section 4 with respect to the transaction being reviewed or investigated, and whether the President of India took any action under this section with respect to that transaction;

(ii) basic information on each party to each such transaction;

(iii) the nature of the business activities or products of the Indian business with which the transaction was entered into or intended to be entered into; and

(iv) information about any withdrawal from the process.

(b) specific, cumulative, and, as appropriate, trend information on the numbers of filings, investigations, withdrawals, and decisions or actions by the Chairperson under section 11.

(c) cumulative and, as appropriate, trend information on the business sectors involved in the filings which have been made, and the countries from which the investments have originated.

(d) information on whether companies that withdrew notices to the Committee in accordance with section 5 have later refiled such notices, or, alternatively, abandoned the transaction.

(e) the types of security arrangements and conditions, the Committee has used to mitigate national security concerns about a transaction, including a discussion on the methods that the Committee and any lead agency are using to determine compliance with such arrangements or conditions.

(f) a detailed discussion on all perceived adverse effects of covered transaction on the national security or critical infrastructure of India that the Committee propose to take into account in its deliberations during the period before delivery of the next report, to the extent possible.

(g) statistics on compliance plans conducted and actions taken by the Committee during that period, a general assessment of the compliance of parties with agreements entered into and conditions imposed under sections 4 that are in effect during that period, including a description of any actions taken by the Committee to impose penalties or initiate a unilateral review and any recommendations for improving the enforcement of such agreements and conditions.

(h) cumulative and, as appropriate, trend information on the number of declarations filed under section 5, the actions taken by the Committee in response to those declarations, the business sectors involved in those declarations, and the countries involved in those declarations.

(i) a description of—

(i) potential methods to improve such identification and the resources required to do so; and

(ii) the number of transactions identified during the reporting period and the number of such transactions identified for further review.

(3) The report shall be created and maintained in such manner, as may be prescribed by the regulations framed under section 9.

15. (1) There shall be established a fund, to be known as the 'Committee on Foreign Investment in India Fund' to be administered by the Chairperson.

Funding and
Fees.

(2) The Central Government shall provide, after the appropriation made by Parliament by law in this behalf, necessary amounts each year to the Fund, as may be required, for carrying out the purposes of this Act.

(3) The Committee may assess and collect a fee as may be determined by the Committee by regulations with respect to each covered transaction for which a written notice is submitted to the Committee under sub-section (1) of section 5 or a declaration under sub-section (4) of section 5

(4) The amount of the fee to be assessed under sub-section (3) with respect to a covered transaction—

(i) may not exceed an amount equal to one percent of the value of the transaction or an amount decided by the Committee, whichever is less.

(ii) shall be based on the value of the transaction, taking into account the effect of the fee on small business concerns; the expenses of the Committee associated with conducting activities under this Act, the effect of the fee on foreign investment; and such other matters as the Committee considers appropriate.

(5) The Committee shall periodically reconsider and adjust the amount of the fee to be assessed under sub-section (4) with respect to a covered transaction to ensure that the amount of the fee does not exceed the costs of administering this Act and otherwise remains appropriate.

(6) Any fees collected under this Section shall—

(a) be deposited into the Fund solely for use in carrying out activities under this Act;

(b) to the extent and in the amounts provided in advance in Appropriations Acts, be available to the Chairperson;

(c) remain available until expended; and

(d) be in addition to any appropriations made available to the Committee.

CHAPTER IV

MISCELLANEOUS

Rules of evidence. **16.** The burden of proof for establishing that a covered transaction does not pose a threat to the national security of India shall be on the party to a covered transaction.

Appeal. **17.** Any person aggrieved by an order of the Committee under section 5 or section 6 as the case may be; may file an appeal to the High Court within thirty days from the date receipt of the order.

Act to supplement other laws. **18.** No provision of this Act shall be construed as altering or affecting any other authority, process, regulation, investigation, enforcement measure, or review provided by or established under any other provision of the laws in force in India and shall be in addition to and not in derogation thereof.

Power to remove difficulties. **19.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by an order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Penalty. **20.** Whoever fails to comply with the provisions of this Act, shall be punishable with a fine which shall not be less than rupees one crore, subject to a maximum of rupees twenty five crore.

Protection for action taken in good faith. **21.** No suit, prosecution or other legal proceedings shall lie against the Committee or the person, officer or authority in respect of anything done by it or him in good faith in pursuance of carrying out the bonafide purposes of this Act or of any rule or order made, or direction issued, there under.

Severability. **22.** If any provision of this Act, or the application of such a provision to any person or circumstance, is held to be invalid, the application of that provision or amendment to other persons or circumstances and the remainder of the provisions of this Act shall not be affected thereby.

Power to make rules. **23.** (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made under this section and every regulation made by the Committee under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

STATEMENT OF OBJECTS AND REASONS

There is an imminent threat to India's national security on account of the influx of Multi-National Corporations—large internet firms from certain leading economies into India's financial technology space either directly or through a proxy. Such instances include the buying of a large stake and taking de-facto control of the existing Indian companies. As far as foreign investment is concerned, at present, there is no level playing field in India between private sector banks and non-bank finance companies (NBFCs).

Since it is extremely hard to get a fresh banking license, the favourite route for foreign Multi-National Corporations to enter the Indian financial services space is through the non-bank finance companies which are now becoming systemically important. Current foreign direct investment regulations in India allow one-hundred per cent foreign investment in non-bank finance companies under the automatic route. This unfettered foreign ownership and control of our non-bank finance companies can potentially destroy the strong fabric of India's financial services sector.

Foreign financial giants could capture a large chunk of our domestic lending market by resorting to predatory pricing and capital dumping. This is nothing but a surreptitious aggression, which, if unchecked, could give the foreign government access to sensitive data on millions of individuals including armed forces personnel and corporates. These data could be weaponized posing a serious national security threat. India must balance its national interest with imperative of foreign investment against the potential damages.

In the light of this growing unacknowledged threat to national security, it is imperative to redouble the ongoing efforts to ensure data privacy. The Reserve Bank of India presently has an ownership cap of ten per cent on a single foreign investor in respect of private sector banks. Further, the Reserve Bank of India currently has an overall ownership cap of seventy-four per cent on all foreign investors combined, in respect of private sector banks. These ownership limits should be urgently extended to non-bank finance companies and payments firms.

There is a need for a legislation which aims at balancing the possible gains from foreign investment against potential national security harms.

Hence this Bill

DR. NARENDRA JADHAV

FINANCIAL MEMORANDUM

Clause 15 of the Bill envisages the establishment of the Committee on Foreign Investment in India Fund, out of the Consolidated Fund of India. Besides this, a non-recurring expenditure is also likely to be involved. At this stage, it is not possible to quantify the exact amount.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XXIII

BILL NO. XLVIII OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2018.

(2) It shall come into force with immediate effect.

Amendment
of article 16.

2. In the constitution of India, for Clause 4 of article 16, the following shall be substituted, namely:—

"(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, in proportion to their population which, in the opinion of the State, is not adequately represented in the services under the State."

STATEMENT OF OBJECTS AND REASONS

In terms of the principles of affirmative action enabled under the Constitution of India to ameliorate the conditions of Other Backward Classes (OBCs), periodic measures have been taken by the previous Governments. However, OBCs have not secured representation proportionate to their population in Government jobs.

2. The representation of the citizens from socially and educationally backward classes in Government jobs, as provided by the Constitution is only 27 per cent while their population is fairly more than this.

3. The proposed Bill would enable adequate, Reservation for OBCs in appointments or posts and make the system of appointments more equitable and thereby increase the representation of OBCs in proportion to their population in Government jobs.

4. The Bill seeks to achieve the above objectives.

JAVEDALI KHAN

XXIV

BILL NO. LXI OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
article 85.

2. In article 85 of the Constitution, for sub-clause (1), the following shall be substituted, namely:—

“(1). The President shall summon each House of Parliament to meet for three sessions in a year commencing in the first or second week of February, July and November respectively:

Provided that the President may from time to time summon each House of Parliament to meet for additional sessions, as he may deem necessary, at such time and place as he thinks fit:

Provided further that each House of Parliament shall meet for not less than one hundred days in a year.”

STATEMENT OF OBJECTS AND REASONS

Parliamentary convention has evolved in such a manner that Parliament usually meets for three sessions in a year - Budget Session (February-May), Monsoon Session (July-August) and Winter Session (November-December). However, the Constitution does not provide for a fixed calendar of sittings or a minimum number of sittings. While the idea of a fixed calendar was explored by the General Purposes Committee of the Lok Sabha in 1955, the importance of having a minimum number of sittings was highlighted by the National Commission to Review the Working of the Constitution in 2002.

Enshrining the parliamentary convention in the body of the Constitution of India itself will ensure that the Government of the time cannot evade the accountability of the legislature by delaying the commencement of a session. It will also allow Members of Parliament to plan their parliamentary agenda around the fixed schedule to fully take advantage of every mechanism of parliamentary oversight and law-making. Furthermore, to address the decline in the number of sittings, it has been proposed that a minimum of 100 days be incorporated within the Constitution.

The healthy functioning of a representative democracy requires a careful scrutiny of legislation and regular parliamentary engagement on issues of public importance. To achieve this objective, it is imperative that a fixed calendar for parliamentary sessions along with a minimum number of sittings is established.

Hence, this Bill.

DEREK O'BRIEN

XXV

BILL NO. V OF 2019

A Bill further to amend the Representation of the people Act, 1951

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2019.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
Section 151A.

2. In section 151A of the Representation of the People Act, 1951 to as for clause (a) of 43 of 1951. the proviso, the following shall be substituted namely:—

“(a) The remainder of the term of the person elected to fill the vacancy is less than one year from the estimated date of declaration of the result by the Election Commission explanation: For the purpose of this proviso the estimated date of declaration of the result shall be provided by the Election Commission.”

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to avoid the exorbitant expenditure involved in conduct of bye-elections to fill the vacancy of Member of the Parliament or State Legislatures, if the remaining term of such member in a relation to a vacancy is less than one year subsequent to their estimated date of assumption of office. To maintain that the elections to office for this small duration is not a burden on the exchequer is not an acceptable stand. The Parliament should respect the right of the people to be represented but it should also necessarily take into consideration the money and resources of the people at the disposal. It is necessary to note that this provision is resources of the people at the disposal. It is necessary to note that this provision is working to the detriment of the populace. Moreover, delayed bye-elections are a frequent case usually tending to be held in the latter part of the stipulated six month duration. The onus therefore lies on the Parliament to amend the laws for the betterment of the people and being true to the realities of the democracy along with the principles.

The Bill seeks to achieve the above objects.

K.C. RAMAMURTHY

XXVI

BILL No. VI OF 2019

A Bill for the declaration of the city of Kashi as the oldest living city of utmost national importance and to provide for the conservation, preservation and maintenance of culutral and natural heritage, heritage of Kashi and for matters connected therewith or incidental thereto.

WHEREAS the ancient city of Kashi is one of the oldest living cities in the world and the cradle of Indian civilisation.

AND WHEREAS the ancient city of Kashi is abounded by thousands of ancient temples and other places of worship which play an important role in the social and cultural fabric of the city.

AND WHEREAS it is considered necessary to take appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection,

conservation, preservation and rehabilitation of cultural and natural heritage of the ancient city of Kashi.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Holy City of Kashi (Preservation of Cultural Heritage) Act, 2019. Short title and commencement.

(2) It shall come into force on such date as the Central Government may by notification in the Official Gazette appoint.

2. (1) In this Act, unless the context otherwise requires,— Definitions.

(a) "appointed date" means such date, as may be notified by the State Government;

(b) "construction" means any erection of a structure or a building, including any addition or extension thereto either vertically or horizontally including any reconstruction, repair and renovation of an existing structure or building, or, construction of roadways or waterways, or, construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences, or, the construction and maintenance of works meant for providing supply of water for public, or the construction or maintenance, extension, management for supply and distribution of electricity to the public or provision for other similar facilities for public;

(c) "heritage site" means a cultural heritage site, a natural heritage site, a mixed cultural and natural heritage site or a cultural landscape of outstanding value;

(d) "Kashi" means the area of Varanasi district in Uttar Pradesh;

(e) "large scale project" means an activity, which concerns construction or reconstruction estimated to cost not less than rupees twenty crores;

(f) "local authority" means a municipal corporation, municipal committee, land development authorities constituted under the respective State Acts, or special area development authority, village panchayat, zila parishad, hill development council, cantonment board or such other bodies, vested with the powers to control and regulate constructions and developmental activities in their respective areas;

(g) "notification" means a notification published in the Official Gazette and the word "notify" shall be construed accordingly; and

(h) "State Government" means the Government of the State of Uttar Pradesh.

Explanation.—For the purposes of this clause,—

(i) "cultural heritage site" shall include,—

(a) monuments, that is to say, architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features which are of outstanding value from the point of view of history, art or science;

(b) buildings, that is to say, separate or connected buildings which, because of their architecture, homogeneity or place in the landscape, are of outstanding value from the historical, aesthetic, ethnological or anthropological point of view;

(c) sites, that is to say, works of man including industrial or railway heritage or the combined works of nature and man and areas including archaeological sites which are of outstanding value from the historical, aesthetic, ethnological or anthropological point of view; and

(d) places of religious worship, that is to say, structures more than hundred years old or more, where devotees offer prayers;

(ii) "natural heritage site" shall include,—

(a) natural sites or precisely delineated natural areas which are of outstanding value from the point of view of science, conservation or natural beauty;

(b) geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants and are of outstanding value from the point of view of science or conservation;

(c) natural features consisting of physical and biological formations or groups of such formations, which are of outstanding value from the aesthetic or scientific point of view;

(iii) "mixed cultural and natural heritage site" shall include properties which satisfy a part of the attributes of both cultural heritage site and natural heritage site;

(iv) "cultural landscape" includes cultural properties representing the combined works of man and the nature and illustrative of the evolution of human society and settlement over a time, under the influence of the physical constraints and opportunities presented by their natural environment and of successive social, economic and cultural forces, both external and internal;

(v) "outstanding value", in relation to a heritage site, means its cultural or natural significance which is so exceptional as to transcend the boundaries of the place in which it is located and is of great importance for the present and future generations of the country;

Declaration of Kashi as the oldest living city of national importance.

Constitution of Committee for preservation of heritage sites.

Maintenance of a roster of heritage sites.

Measures to prevent damage to heritage sites.

Rebuilding and rehabilitation of heritage sites.

3. The Central Government, shall by notification, declare Kashi as the 'oldest living city of utmost national importance', Keeping in view the unique stature and importance of Kashi.

4. The Central Government shall Institute a committee *inter alia* comprising of archaeological experts and scholars for the purpose of identification, conservation and preservation of heritage sites, natural heritage sites, mixed cultural and natural heritage sites and cultural landscapes of outstanding value in Kashi, in such manner as may be prescribed.

5. (1) The Central Government shall maintain a heritage sites roster for Kashi and make it available on its website for public viewing.

(2) The Central Government may, keeping in view the national importance of any of the heritage sites, notify such heritage sites and enter the description of such sites in the heritage sites roster in such manner as may be prescribed.

6. (1) All large scale projects and construction, started after the notification of this Act or ongoing at the time of its enactment, shall be stopped with immediate effect pending an evaluation published at an appointed date of their impact on heritage sites, natural heritage sites, mixed cultural and natural heritage sites and cultural landscapes by the Committee constituted under section 4.

(2) The State Government shall take all measures, including but not limited to shutting down of polluting industries, revocation of government licenses and stoppage of large scale projects detrimental to conservation, preservation and upkeep of heritage sites, natural heritage sites, mixed cultural and natural heritage sites and cultural landscapes.

7. The local authority shall make all efforts to identify, rebuild and rehabilitate heritage sites, natural heritage sites, mixed cultural and natural heritage sites and cultural landscapes that have been harmed due to large scale projects and construction works undertaken before enactment of this Act.

8. The Central Govt. shall after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Central Govt.
to provide
funds.

9. The Central Govt. may by notification in the official gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

Situated on the banks of the holy Ganges, the ancient city of Kashi is also the city of Buddha, Jain Tirthankars, Shaiva and Vaishnava saints like Kabir and Tulsi. Kashi is one of the oldest seats of knowledge and the city's various arts, crafts and mesmerising architecture is recognised all over the world. Kashi is eternally in motion yet still holds the charm of an ancient river valley civilisation, stuck in time but liberated simultaneously. Such is the story of this marvellous living city.

At the same time, Kashi is the third most polluted city in India and its toxic air is choking the city dwellers and tourists. Much of this has been done in the name of development. The horrific collapse of a flyover in the city last year is a testament to the haphazard way of development that has been undertaken.

Another one of such planned-ill development initiatives is the proposal for the construction of a corridor, supposedly to provide easy access to pilgrims, the work on which has already been started by the State Government. There is a need for protection of temples, many of them hundreds of years old, and residences among other constructions while implementing any developmental work.

The proposed Bill puts forward the demand of lakhs of people of Kashi as well as crores of other who stand for conservation of our cultural heritage and see Kashi as the holiest of the earth's cities. Hence, this Bill proposes the proclamation of Kashi as the 'oldest living city of utmost national importance', the conservation and preservation of a wide array of tangible and intangible heritage and the stopping of haphazard development projects. The Bill provides that the Central Government shall constitute a committee, without any delay, to identify, enumerate and preserve Kashi's shared cultural heritage.

SANJAY SINGH

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of a committee of archaeological experts and scholars, while Clause 7 provided for re-building and rehabilitation of heritage site in the ancient city of Kashi. Clause 8 of the Bill makes it obligatory for the Central Government to provide requisite fund for carrying out the purposes of this Act. Therefore, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible at this stage to estimate the actual financial expenditure that is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matter of details only, the delegation of legislative powers is of a normal character.

XXVII

BILL NO. XIV OF 2019

A Bill to provide rights to visually impaired persons, enabling them to avail employment, social and financial security, civil and other services, to live with human dignity, self respect as independent citizens and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

1. (1) This Act may be called the Visually Impaired Persons (Protection of Rights) Act, 2019.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “Board” means the Employment Advisory Board constituted under section 6;

(c) “family” includes wife, husband and minor children;

(d) “prescribed” means prescribed by rules made under this Act; and

(e) “visually impaired person” means a person with decreased ability to see to a degree or with blindness which causes difficulties in normal activities such as driving, reading, socializing and walking.

Central Government to frame a national policy.

3. The Central Government shall as soon as may be, but within six months of the commencement of the Act, by notification in the official Gazette, frame a national policy for protection and welfare of the rights of the visually impaired persons.

Appropriate Government to provide employment to visually impaired persons.

4. It shall be the duty of the appropriate Government to provide employment to unemployed visually impaired persons in such manner as may be prescribed.

Grant of unemployment allowance.

5. (1) Every unemployed, underemployed, aged visually impaired persons shall be entitled to receive such monthly unemployment allowance as may be prescribed till such time he is gainfully employed.

(2) While fixing the rate of unemployment allowance, the Central Government shall take into account the age, educational qualifications, technical skills, visual difficulties and such other factors as it may deem necessary:

Provided that different rates of unemployment allowance may be prescribed for different categories of visually impaired persons and for such persons living in different States or parts of States.

Constitution of Employment Advisory Board.

6. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, constitute an Employment Advisory Board for carrying out the purposes of this Act.

(2) The Board shall consist of the following persons, namely:—

(a) a retired judge of the Supreme Court of India—Chairperson;

(b) two representatives of the rank of the Secretary to the Government of India to be appointed by the Central Government—Members;

(c) one representative from Union Ministry of Social Justice and Empowerment—Member Secretary;

(d) two representatives from the National Association for the Blind having experience in providing rehabilitation to the Blind, to be appointed by the Central Government in such manner as may be prescribed—Members;

(e) one representative of the rank of Joint Secretary from NITI Aayog—Member;

(f) one woman representative having experience in the field of rehabilitation of Blind Women and Children, to be appointed by the Central Government—Member;

(g) one representative from the National Institute for the Visually Handicapped (NIVH) Dehradun to be appointed by the Central Government—Member.

(3) The salary and allowances payable to and other terms and conditions of services of Chairperson, members, officers and staff of the Board shall be such as may be prescribed.

7. The Board shall meet at such places and times and observe such rules of procedures in regard to transaction of business at its meetings including quorum as may be prescribed:

Meeting of
the Board.

Provided that Board shall meet at least once in a month.

8. The powers and functions of the Board shall *inter alia* include to, —

Powers and
functions of
the Board.

(a) advise the Central Government on policy matters pertaining to the visually impaired persons;

(b) review existing policies, rules, regulations and procedures with a view to encompassing values, needs and aspirations of the visually impaired persons;

(c) provide intensive individualized and personalized education and free vocational training to all employable visually impaired youth;

(d) setting up training centres along with hostel facilities by the appropriate Government for the adult blind to provide Light Engineering/Fitter, Steno Training, Recaning, Book Binding, Computer Training, Hand works, weaving etc.;

(e) modernize all vocational training institutes and services for the visually impaired persons in coordination with the appropriate Government;

(f) co-ordinate with the appropriate Government to ensure professional rehabilitation of the visually impaired persons by specialist qualified staff;

(g) co-ordinate with the appropriate Government to introduce modern management techniques;

(h) co-ordinate with the appropriate Government to substantially upgrade standards of vocational training to the visually impaired persons;

(i) co-ordinate with the appropriate Government to develop multiplicity of skills in the visually impaired persons;

(j) co-ordinate with the appropriate Government to make training for the visually impaired persons work/employment/job oriented;

(k) co-ordinate with the appropriate Government to train, and continue to upgrade staff members training;

(l) co-ordinate with the appropriate Government to instill good work habits and work tolerance among the visually impaired persons;

(m) co-ordinate with the appropriate Government to ensure full capacity utilization;

(n) co-ordinate with the appropriate Government to use all normal community resources fully;

(o) co-ordinate with the appropriate Government to promote employment among the visually impaired persons by all known channels, such as self-employment, rural employment, industrial employment, co-operatives etc.;

(p) co-ordinate with the appropriate Government to follow principles of selective placement to match job demands with client's abilities for the benefit of the visually impaired persons;

(q) co-ordinate with the appropriate Government to promote on-the-job training programmes and multi-disciplinary assembly lines in large industrial plants;

(r) co-ordinate with the appropriate Government to provide vocational guidance, vocational assessment, evaluation and career-planning services to the visually impaired persons;

(s) involve high-level technicians, techno-crafts, trade unions, and employers' organizations;

(t) conduct research with the help of international and national level research laboratories and research & development departments of industries and eminent scientists especially research in developing or adapting aids, appliances, equipment or techniques;

(u) organize resource cells in all national and state level organizations which may provide or supervise community-based services to the visually impaired persons;

(v) set up clearing houses for dissemination of information and knowledge of latest advancements in technology for the benefit of the visually impaired persons;

(w) promote regional co-operation and spare experts for staff training for the benefit of the visually impaired persons;

(x) launch intensive mass-media publicity for raising public awareness towards needs of the visually impaired persons;

(y) create community awareness through the mass-media;

(z) recommend to the appropriate Government to accept full responsibility for meeting all the special needs of the blind and visually-impaired persons;

(aa) recommend to the appropriate Government to provide the special needs for employment mobility and integration of the blind and visually-impaired persons;

(ab) recommend to the appropriate Government to set up exclusive commissions or Directorate for the rehabilitation of the disabled, with specialist representation for each of the major disabilities including visually impaired persons;

(ac) recommend to the appropriate Government to grant tax-deductions and other benefits to employers who employ the disabled, including the blind and visually impaired persons;

(ad) recommend to the appropriate Government to give top priority to the rehabilitation of the disabled persons with multiple handicaps, disabled women and children, the disabled persons in rural areas, and the elderly, infirm disabled; and

(ae) recommend to the appropriate Government to formulate comprehensive social security schemes, subsidize blind people not able to earn a living wage, provide pension schemes for the elderly and multiple handicapped and to comprehensively cover the disabled in all social and pension schemes.

Annual report.

9. (1) The Board shall prepare once every year, as may be prescribed, an annual report giving summary of its activities including schemes and recommendations to the appropriate Governments during the previous year and shall contain statement of the annual accounts of the Board.

(2) A copy of the report shall be forwarded to the Central Government and the Central Government shall lay the report before each House of the Parliament as soon as it is received.

Central Government to provide funds.

10. The Central Government shall after due appropriation made by the Parliament by law in this behalf, provide adequate funds to the State Governments for the purposes of this Act.

Act to have overriding effect.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but same as aforesaid the provisions of this Act, shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

12. The Central Government in consultation with the State Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Blind people living in rural areas constitute 80% of the blind population in developing countries like India. They are scattered throughout millions of isolated and remote villages. For Lack of an adequate and well organized delivery of services system, it is going to be extremely difficult to ensure the fundamental human rights to the rural visually impaired and to ensure they all definitely receive the relevant services according to their specific disabilities.

Unemployment is one of the biggest problems in India. Lyndon B. Johnson said: "We must open the doors of opportunity, but we must also equip our people to walk through those doors."

We must aim at total rehabilitation of the visually impaired and equip them with a multiplicity of skills, so as to enable them to face the challenges ahead in the decades to come.

Since dame nature has denied to the blind its most precious gift-VISION-the State and the community should go all out to ensure that they are not further denied fundamental human rights and that they are enabled and assisted to get like other citizens-health care, education, employment, civic and other services to live with human dignity and as self-respecting, independent citizens.

It is estimated that the world's blind population was in the order of 100 million by the year 2020. The visually challenged form 18.6% of India's 26.8 million disabled population of whom 15.7 million are in the employable age of 15 to 59 years. Yet 60.4% of India's disabled people are either without work or are marginally employed according to 2011 census. Therefore there is an urgent need to provide gainful employment to the visually impaired persons.

Hence, this Bill.

VIJILA SATHYANANTH

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for grant of unemployment allowance to visually impaired persons. Clause 6 of the Bill provides for constitution of the Employment Advisory Board. Clause 10 provides that the Central Government shall provide funds. Therefore, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible to estimate at this stage as to the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of details only, the delegation of legislative powers is of a normal character.

DESH DEEPAK VERMA,
Secretary-General.